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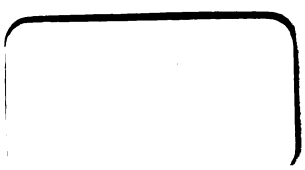
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The Annals

OF THE

AMERICAN ACADEMY OF

POLITICAL AND SOCIAL SCIENCE

THE ETHICS OF THE PROFESSIONS AND OF BUSINESS

Modern social and business relations are as manifold as they are farflung. To assure reliance and to state ideals the codes of ethics of professions and the newer ethical codes of business become of great public importance. Industrial expansion and social progress are limited by the standards of business and professional conduct that guide men and women when engaged in making a living. To the expression and betterment of these standards this volume is devoted.

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FOREWORD

CODES of ethics are important agencies for social control. The complexities and the specializations of modern industrial life leave many individuals unable to judge whether or not a member of any profession has performed his services with due regard to the interests of all, as well as with due regard to the interests of his client. In all but the crassest and most obvious defaults in service standards the work of the physician must be judged by physicians and that of the lawyer, by lawyers. And so with each of the professions. The higher the skill, the greater the need for organized group effort toward maintaining a fine sense of obligations, not primarily to others in the same profession, but chiefly to the general well-being of all.

Hence it is that the ideal of all the professions is public service and not monetary gain. The very opportunities for anti-social conduct call forth organized effort to taboo unprofessional conduct. The constructive aim of each of the professions must therefore be the public good. The member of each of the professions has as his means of livelihood the heritage of the ages in his science. His earning power and his opportunity for immortality of influence depend upon the careful work of countless predecessors. The training necessary to a mastery of a profession gives the opportunity, but not the reason, for enforcing high standards of conduct throughout the profession.

Until very recently business was looked upon solely as a means to a selfish end. The ethics of business were those of the barter-market. The buyer could beware. The sole test of the seller was what he could get away with. But modern transportation systems have changed all this. Oranges grown in California must now be marketed in Philadelphia and automobiles are now made in Detroit to be sold in the Orient. The manufacturer sells to distant unknown customers through advertising. Even contracts to buy and to sell, in these days of the telephone, are largely by word of mouth. Selling prices must now be announced before goods are produced. Business hangs more and more upon good faith. That old adage, "A man's word is as good as his bond," acquires new meaning as a business asset.

The necessity of good faith in business was brought forcibly to the attention of the business world by the unprecedented cancellation of contracts in the recent period of rapidly rising and falling prices. Business men learned then how little money it takes to tempt a man to break his word. But modern business cannot go on where there is lack of confidence. The sudden stagnation of business in 1920 was due more than men are wont to believe to the breakdown of moral stamina. Business is today far flung in its relations and complex in its ramifications. The structure falls when good faith fails.

In the past few months, many business men have come to have a solemn sense of personal obligation to restore and maintain faith in the business world. For ethics is the basis for creative industry. The National Association of Credit Men has adopted a formal code of ethics. (See page 208.) The Associated Advertising Clubs of the World has started a "Truth in Advertising" Movement and has formed a Vigilance Committee to enforce the truthful presentation of business facts in advertising. (See page 214.) The "Commercial Standards Council" was federated out of many large busi-

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ness associations to suppress bribery and to secure better ethical standards in business. (See page 221.) The Rotarians, under the poignant leadership of Mr. Guy Gundaker, have set for themselves the gigantic yet inspiring task of creating a code of ethics in every craft and business group throughout the country. (See page 229.) And even the editors of newspapers have assumed responsibility for a public profession as to their standards of conduct. (See pp. 170 to 179.)

As business groups and crafts struggle to put into words the ideals that shall guide their members when meeting the business temptations peculiar to each craft or industry, they, too, must turn away from mere negations to the ideal. And this ideal, as with the professions, must be the public good. These business groups, however, will not find at hand the same means for enforcing high standards of conduct that the professions have. There will usually be no selective training for the work performed, though the demand for such training is increasing. (See page 205.) But, on the other hand, business groups will have the powerful controlling agency of the organized market.

The business world is now so complex that reliance must be its first watchword. And this can never be until the ideal of service controls the crafty impulse for profits. Confidence can never be established merely by preventing the illegal. Laws must by their very nature be the expression of accepted standards of conduct. Unless those standards are generally accepted, laws can be of no avail. For laws enforce the obedience of minorities only. The professions of law and of medicine will never entice the public confidence if the members of those professions organize solely to punish the lawbreaker. The physician, to be worthy of his profession, must do more than refuse to do the illegal act. He must do his share to prevent disease, even though by so doing he shall decrease the need for physicians. The unethical and the illegal are not synonymous. The ethical points to the goal. The illegal leads only to the jail. The unethical is the path in the mud. The ethical is the paved road to public service. Ethics like all paved roads are the result of conscious, persistent, human effort.

One danger to the general good lurks in group codes, and that is that the code may degenerate into the creed of a "make-work" union. We have heard much of late about wage earners making work for each other and not pushing their own jobs to a finish. We have been prone to forget that the same disease has long been chronic among some members of the legal profession. We have scolded the wage earners for standing together when many physicians have long practised all the arts of mutual protection. Unless the ancient self-seeking by individuals is to become, under the modern necessity for organization, mere self-seeking by groups, codes of ethics must keep clearly in mind at all times the good of all. If chambers of commerce may dominate the legislature of Pennsylvania, why may not the farmers dominate the national Congress? If lawyers are to make work for each other, how are we to say that laborers shall not soldier on their jobs? Self-determination by groups there should be; but self-determination in the light of the good of all.

One aspect of group consciousness of late is the belief of each of the professions that it alone should inherit the earth. Engineers have recently claimed that engineering is the one all-inclusive industrial profession. The farmers have long known that the farm is the beginning and the end of all industry. Ministers have solemnly assured their

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hearers that the ministry is the highest of all callings while the contempt of lawyers for the skill or knowledge of others has been chronic. And who has not been told that labor produces all goods and who else ever can be "practical" but the business man? In so far as this group-smugness is born of a conviction of the dignity and social value of one's calling, such a feeling will have social value. But in so far as it is indicative of group-selfishness, we must find an antidote for it.

And that antidote has been suggested in the Interprofessional Conference. Such a Conference was held in Detroit in 1919. The purpose of that Conference (see page 13) was "to liberate the professions from the domination of selfish interest, both within and without the professions, to devise ways and means of better utilizing the professional heritage and skill for the benefit of society and to create relations between the professions looking toward that end." The Congress of the Building Industry, formed in this country, is fraught with such possibilities. Mr. Hoover's Unemployment Conference created in the minds of its most selfish members an impulse to do one's duty toward others. Such congresses where one may learn of the needs and points of view of others will tend to transmute group-selfishness into group-ideals of public service. The public weal is a joint product of the loyal services of the skill, knowledge and creative ability of all. Useless one group or profession without the other.

Codes of ethics are the means by which groups keep their members socially victorious over self-aggrandizement. To survive, such codes must achieve a unity not of negation but of spirit—a spirit that consecrates life to the long-time interests of all through one's efforts while making a living.

CLYDE L. KING,
Editor.

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ACKNOWLEDGMENTS WITH A DEDICATION

THIS volume of the "Annals" owes its value to the service ideal of each member of the committee whose names are given on the opposite page. The content and point of view of this volume were both new. Here and there individuals within the professions had given thought to the place and value of a code, each for his own profession, but few even of these had thought of the service value of the standards of conduct reflected in those codes to other professions or to business generally. The volume required consultation and repeated searches for contributors and topics and codes on the part of all the members of this committee. Many not only helped with suggestions and advice but also undertook the preparation of articles themselves. To all of these the officers of the Academy render grateful acknowledgments.

The services of this committee are not to end with the publication of this volume. The members of the committee have dedicated themselves to the cause of the betterment of ethical standards among the professions and in business. To this end they will keep themselves in touch with and aid when possible the attempts of all organizations everywhere to attain and maintain high standards of social conduct. With the active support of the many hundreds of loyal and active Academy members everywhere, such services are sure to bring ample returns. For the stability and worthwhileness of our social and industrial life depend upon the standards of conduct of men and women when engaged in making a living.

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The Significance of the Professional Ideal

Professional Ethics and the Public Interest

By Robert D. Kohn

New York City, Fellow of the American Institute of Architects

OF the many socially significant effects of the War there are some which are of particular interest to the professions. One of these is the new impulse to appraise the motives that have inspired various professional ideals and more particularly to test out those ideals with the touchstone of the public interest. That test naturally results from any consideration of the almost universal desire for service, the sacrifice of one's private interests to the common good that was prevalent throughout the War; perhaps, indeed, more prevalent among those who could not make their sacrifice by carrying a gun. For once, the money-making motive was laid aside; thousands, nay, millions of people gladly accepted the service motive as quite adequate to energize every human activity. At one blow, the professional classes were recruited a millionfold and a thousand occupations that had never been considered as capable of becoming professional unconsciously became professional. The gain motive was subservient to the motive of perfecting the quality of service.

With the cessation of hostilities most of these great impulses faded away almost over night. Their significance had been recognized by the few; yet here and there among the recognized professions there were stirrings of a new life, and at least two marked instances of effort to retain the worthwhile elements resulting from war-time coöperation. One of these was the admirable move of the engineering societies to continue through engineering councils certain forms of service to the public that had been most highly developed as a result of the war-time demand for their particular technique. The second was the effort of the architects to continue to lead the moves for the betterment of housing, for city planning, etc., in which they had taken a leading part during the War. In both of these professions there were also striking efforts to analyze the relations of the profession to the public. The Post-War Committee of the American Institute of Architects proposed, among other things, a very thorough investigation of the extent to which the architectural profession of the United States was rendering the quality and quantity of service which all of the public had the right to demand. This particular survey was very much along the line of the investigation of the professions in England made for the Fabian Society by Sidney and Beatrice Webb some years before.

Inter-Professional Coöperation

Perhaps the most notable ethical outcome of the service rendered by the professions during the War was their realization of the need for coöperation between different professions, between the branches of the same profession and between the professions and the technical branches of industry allied to those professions. Indications of this may be found by the formation at Detroit in 1919 of "The Inter-Professional Conference" (still fumbling for a definite form); by the very marked

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tendency towards a more democratic inclusion of the larger number of professional men in the various professional societies, and by the formation of such bodies as the "Congress of the Building and Construction Industry," in which it is sought to bring together in all of the larger communities, not only architects and engineers, but all of those that are functionally connected with building, including contractors, sub-contractors, material manufacturers and dealers, skilled and unskilled labor, building loan and real estate men. There has been, then, a tendency on the part of the professional men to realize that they must become coöperators with the other elements of the total function of which they are a part, rather then one directing element. One item in the final report of the Post-War Committee on Architectural Practice said in effect, "The architect by himself cannot cure the deficiencies in his service, or the problems with which his profession is faced; he can only improve his service and make it more adequate to the public need as he realizes his functional relationship to the other parts of the building industry, and through cooperation makes these other elements realize each its distinctive functional responsibility."

In other fields, apparently, there have been similar drawings together of technician with worker and of technician with management, as in the experiments of the English Building Guilds. Whatever may be their measure of success or failure, these, like the Congress of the Building Industry in this country, are efforts towards democracy. The opportunity for the professions to lead in such moves is of immense value.

All of the post-war stirrings within the professions (of which there are legion) are interesting because it appears most important that the professional ideal be now clarified and democratized. Everywhere we see signs that the motive that has inspired industry and commerce is being questioned; a realization is growing that the old motives are inadequate. People say, "If it was possible to conduct the major operations of the great World War without the prime impulse of money getting, is it not possible gradually to increase the number of normal activities inspired by other than money getting?" The commonplace reply is that the necessary patriotic enthusiasm would be lacking. But the professions in the finest sense do actually get their inspiration from a motive other than the money-getting motive. Why, then, is the professional impulse limited in its scope? The earning of a livelihood is naturally the result of competent practice of a profession. But that is not its prime purpose in the best sense. The prime purpose is the perfection of a service, and the most important reward of that perfection is, not the extent to which it is paid, but the extent to which the service is appreciated by those best competent to judge it, by those who practise the same profession.

The whole argument with regard to the validity of (and the extensibility of) the professional motive is remarkably demonstrated by R. H. Tawney of Oxford in his admirable *Acquisitive Society*.[1] He says in part:

> A profession may be defined most simply as a trade which is organized, incompletely, no doubt, but genuinely for the performance of function. It is not simply a collection of individuals who get a living for themselves by the same kind of work. Nor is it merely a group which is organized exclusively for the economic protection of its

[1] *The Acquisitive Society*, by R. H. Tawney, Fellow of Balliol College, Oxford. Harcourt Brace & Howe, 1920.

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members, though that is normally among its purposes. It is a body of men who carry on their work in accordance with rules designed to enforce certain standards both for the better protection of its members and for the better service of the public. The standards which it maintains may be high or low; all professions have some rules which protect the interests of the community and others which are an imposition on it. Its essence is that it assumes certain responsibilities for the competence of its members or the quality of its wares, and that it deliberately prohibits certain kinds of conduct on the ground that, though they may be profitable to the individual, they are calculated to bring into disrepute the organization to which he belongs. While some of its rules are trade union regulations designed primarily to prevent the economic standards of the profession being lowered by unscrupulous competition, others have as their main object to secure that no member of the profession shall have any but a purely professional interest in his work, by excluding the incentive of speculative profit.

The conception implied in the words "unprofessional conduct" is, therefore, the exact opposite of the theory and practice which assume that the service of the public is best secured by the unrestricted pursuit on the part of rival traders of their pecuniary self-interest, within such limits as the law allows. . . . The rules themselves may sometimes appear to the layman arbitrary and ill-conceived. But their object is clear. It is to impose on the profession itself the obligation of maintaining the quality of the service, and to prevent its common purpose being frustrated through the undue influence of the motive of pecuniary gain upon the necessities or cupidity of the individual.

* * *

The difference between industry as it exists to-day and a profession is, then, simple and unmistakable. The essence of the former is that its only criterion is the financial return which it offers to its shareholders. The essence of the latter is that, though men enter it for the sake of livelihood, the measure of their success is the service which they perform, not the gains which they amass. They may, as in the case of a successful doctor, grow rich; but the meaning of their profession, both for themselves and for the public, is not that they make money but that they make health, or safety, or knowledge, or good law. They depend on it for their income, but they do not consider that any conduct which increases their income is on that account good. And while a boot-manufacturer who retires with half a million is counted to have achieved success, whether the boots which he made were of leather or brown paper, a civil servant who did the same would be impeached.

* * *

The idea that there is some mysterious difference between building schools and teaching in them when built, between providing food and providing health, which makes it at once inevitable and laudable that the former should be carried on with a single eye to pecuniary gain, while the latter are conducted by professional men who expect to be paid for service but who neither watch for windfalls nor raise their fees merely because there are more sick to be cured, more children to be taught, is an illusion only less astonishing than that the leaders of industry should welcome the insult as an honor and wear their humiliation as a kind of halo. The work of making boots or building a house is in itself no more degrading than that of curing the sick or teaching the ignorant. It is as necessary and therefore as honorable. It should be at least equally bound by rules which have as their object to maintain the standards of professional service. It should be at least equally free from the vulgar subordination of moral standards to financial interests.

If any of these ideas are to be brought into effect in the interrelations of society; if the professional ideal is to be to any extent carried over into other fields, it behooves the professional man to perfect his ideals. It would be absurd to ignore the fact that these ideals are far from perfection; that professional standards are uncertain and purposes vague. The principles of professional practice have only too

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frequently tended to protect certain monopolies or to advance a particular profession on the gainful side. Professional societies in that respect have gone through and are still going through various stages of liberation from selfishness. The first stage of organization was to protect the members against unfair competition and to improve the profession in public consideration. Then followed the stage in which the relationships between members of the same profession were considered as most important; certain courtesies were to be extended from one member of the profession to another. Then they were bound together to prevent outsiders from interfering or to protect the profession against unjust laws. Next followed the movement to improve admission to practice; educational qualifications were established, and the schools were looked after. Finally there was attained the stage in which permanent importance is given to the relationship of the profession to the service which it may be expected to render—that is to say the stage where public needs are placed paramount to professional rights or even desires. The various professions are today in different degrees within one or more of these several stages of development.

This last and manifestly most socially valuable stage of the development of professional organization can best be advanced if the professions come together and test out the validity of their several standards in the light of the criticism of those who practise some other profession. The weakness of professional influence in public life comes about through the fact that each profession in the past when trying to affect public affairs has spoken for itself alone, and hence its opinions were always suspected of being influenced by self-interest. Nothing is more important in our democracy than that the best qualified to speak on any particular topic shall be able to bring their opinions to bear on public affairs. Nothing is more evident than that today the inexpert is listened to more frequently, perhaps more trustfully than the expert, on questions of public policy. Even when the expert speaks officially as representative of his particular professional body, he is weak because of the suspicion as to his motives. The right technique, that is to say the technique best qualified, can be brought to bear upon our government affairs only when the professions as professions join together, testing out every recommendation in a group conference so as to be able to present their views to the public with all the force of a consolidated inter-professional opinion. And this method is right, too, because no question of public health or engineering or law is merely a question of one technique. The housing problem, for instance, includes problems of engineering, architecture, finance, economics, city planning, public health, social work, law, and many other professions.

PROFESSIONAL ETHICS AND PUBLIC INTEREST

The public interest, then, in the growth and development of the professional ideal is manifold. In the first place, the professional ideal seems to hold out a new hope for a worthwhile motive in many fields which today seem to feel the failure of the money-getting motive. The professional attitude has increasingly proved its validity, and particularly during the War, as an adequate motive force, despite its many failures. It can, however, only be carried over into other fields of human activity from the present-time recognized professions if it is purified and perfected as a result of the efforts of professional

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bodies, coöperating in a study of their ethical standards, methods of training and adequacy of the service to the entire public need, irrespective of class. In the second place, the public interest is great by reason of the fact that the professional ideal alone seems to offer a way out to an inexpertly governed democracy. Through coöperation between professions the expert can be brought into government through the more powerful public opinion thereby created. In the third place, the professions alone can lay the groundwork of a new society based on the idea of the distinctive functional contribution of each to the common good. They must develop that basic idea into a clearly defined scheme by enlarging their field of coöperation and democratic understanding between professional groups and then through points of contact with every branch of the particular industries to which each is related. They alone can begin the process of relating people to each other in terms of their vocations and thus lay the foundation of that new society based on the functional contribution of each to the whole, of which more than thirty years ago Charles Benoist saw the possibilities in *La Crise de l'Etat Moderne*.

Far off as it may be to the realization of any such dream, it is in its beginnings at least in the new impulses noticeable in our professional societies as a result of the War, and will be advanced by such coöperation between the professions as will perfect their standards, justify their ideals with the public interests, and lay the foundations of a broader more democratic inclusiveness, based on the prime importance of the functional relationship between individuals, groups, states and nations.

The Social Significance of Professional Ethics

By R. M. MAC IVER
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THE spirit and method of the craft banished from industry finds a more permanent home in the professions. Here still prevail the long apprenticeship, the distinctive training, the small-scale unit of employment and the intrinsic—as distinct from the economic—interest alike in the process and the product of the work. The sweep of economic evolution seems at first sight to have passed the professions by. The doctor, the lawyer, the architect, the minister of religion, remain individual practitioners, or at most enter into partnerships of two or three members. Specialization takes place, but in a different way, for the specialist in the professions does not yield his autonomy. He offers his specialism directly to the public, and only indirectly to his profession. But this very autonomy is the condition under which the social process brings about another and no less significant integration. The limited "corporations" of the business world being thus ruled out, the whole profession assumes something of the aspect of a corporation. It supplements the advantage or the necessity of the small-scale, often the one-man, unit by concerted action to remove its "natural" disadvantage, that free play of uncontrolled individualism which undermines all essential standards. It achieves an integration not of form but of spirit. Of this spirit nothing is more significant than the ethical code which it creates.

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DISTINCTION BETWEEN BUSINESS AND PROFESSIONAL STANDARDS

There is in this respect a marked contrast between the world of business and that of the professions. It cannot be said that business has yet attained a specific code of ethics, resting on considerations broader than the sense of self-interest and supplementing the minimal requirements of the law. Such a code may be in the making, but it has not yet established itself, and there are formidable difficulties to be overcome. When we speak of business ethics, we generally mean the principles of fair play and honorable dealing which men *should* observe in business. Sharp dealing, "unfair" competition, the exaction of the pound of flesh, may be reprobated and by the decent majority condemned, but behind such an attitude there is no definite code which business men reinforce by their collective sense of its necessity and by their deliberate adoption of it as expressly binding upon themselves. There is no general brotherhood of business men from which the offender against these sentiments, who does not at the same time overtly offend against the law of the land, is extruded as unworthy of an honorable calling. There is no effective criticism which sets up a broader standard of judgment than mere success.

If we inquire why this distinction should hold between business and professional standards the social significance of the latter is set in a clearer light. It is not that business lacks, unlike medicine or law for example, those special conditions which call for a code of its own. Take, on the one hand, the matter of competitive methods. It is a vital concern of business, leading to numerous agreements of all sorts, but these are mere *ad hoc* agreements of a particular nature, not as yet deductions from a fully established principle which business, as a self-conscious whole, deliberately and universally accepts. Take, on the other hand, such a problem as that of the duty of the employer to his workpeople. Is not this a subject most apt for the introduction of a special code defining the sense of responsibility involved in that relationship? But where is such a code to be found?

THE IDEAL OF SERVICE

Something more is evidently needed than a common technique and a common occupation in order that an ethical code shall result. We might apply here the significant and much misunderstood comparison which Rousseau drew between the "will of all" and the "general will." In business we have as yet only the "will of all," the activity of business men, each in pursuit of his own success, not overridden, though doubtless tempered by the "general will," the activity which seeks first the common interest. The latter can be realized only when the ideal of service controls the ideal of profits. We do not mean that business men are in fact selfish while professional men are altruistic. We mean simply that the *ideal of the unity of service* which business renders is not yet explicitly recognized and proclaimed by itself. It is otherwise with the professions. They assume an obligation and an oath of service. "A profession," says the ethical code of the American Medical Association, "has for its prime object the service it can render to humanity; reward or financial gain should be a subordinate consideration," and again it proclaims that the principles laid down for the guidance of the profession "are primarily for the good of the public." Similar statements are contained in the codes of the other distinctively organized profes-

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sions. "The profession," says the proposed code of the Canadian legal profession, "is a branch of the administration of justice and not a mere money-getting occupation." Such professions as teaching, the ministry, the civil service and social work by their very nature imply like conceptions of responsibility. They imply that while the profession is of necessity a means of livelihood or of financial reward, the devoted service which it inspires is motivated by other considerations.

In business there is one particular difficulty retarding any like development of unity and responsibility. It may safely be said that so long as within the industrial world the cleavage of interest between capital and labor, employer and employe, retains its present character, business cannot assume the aspect of a profession. This internal strife reveals a fundamental conflict of acquisitive interests within the business world and not only stresses that interest in both parties to the struggle but makes it impossible for the intrinsic "professional" interest to prevail. The professions are in general saved from that confusion. Within the profession there is not, as a rule, the situation where one group habitually employs for gain another group whose function, economic interest and social position are entirely distinct from its own. The professions have thus been better able to adjust the particular interests of their members to their common interest and so to attain a clearer sense of their relationship to the whole community.

Once that position is attained the problem of occupational conduct takes a new form. It was stated clearly long enough ago by Plato in the *Republic*. Each "art," he pointed out, has a special good or service. "Medicine, for example, gives us health; navigation, safety at sea, and so on. . . . Medicine is not the art—or profession—of receiving pay because a man takes fees while he is engaged in healing. . . . The pay is not derived by the several 'artists' from their respective 'arts.' But the truth is, that while the 'art' of medicine gives health, and the 'art' of the builder builds a house, another 'art' attends them which is the 'art' of pay." The ethical problem of the profession, then, is to reconcile the two "arts," or, more generally, to fulfil as completely as possible the primary service for which it stands while securing the legitimate economic interest of its members. It is the attempt to effect this reconciliation, to find the due place of the intrinsic and of the extrinsic interest, which gives a profound social significance to professional codes of ethics.

THE GROUP CODE DISTINCTIVE, NOT THE STANDARD

The demarcation and integration of the profession is a necessary preliminary to the establishment of the code. Each profession becomes a functional group in a society whose tendency is to organize itself less and less in terms of territory or race or hereditary status, and more and more in terms of function. Each profession thus acquires its distinctive code. It is important to observe that what is distinctive is the code rather than the standard. The different codes of racial or national groups reveal variant ethical standards, but the different codes of professional groups represent rather the deliberate application of a generally accepted social standard to particular spheres of conduct. Medical ethics do not necessarily differ in quality or level from engineering ethics, nor the ethics of law or of statesmanship from those of architecture. The false old notion that there was, for that most ancient, and still most imperfectly defined, profession of statesmanship, a peculiar

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code which liberated it from the ordinary ethical standards, has died very hard. In truth there could be no conflict of ethics and politics, for politics could justify itself only by applying to its own peculiar situations and needs the principles which belong equally to every sphere of life.

Ethics cannot be summed up into a series of inviolate rules or commandments which can be applied everywhere and always without regard of circumstances, thought of consequences, or comprehension of the ends to be attained. What is universal is the good in view, and ethical rules are but the generally approved ways of preserving it. The rules may clash with one another, and then the only way out is to look for guidance to the ideal. The physician may have to deceive his patient in order to save his life. The lawyer, the priest and the physician may have to observe secrecy and keep confidences under conditions where it might be the layman's duty to divulge the same, for the conception of the social welfare which should induce the one to speak out may equally in the peculiar professional relationship compel the other to silence. Every profession has its own problems of conduct, in the interpretation within its own province of the common principles of ethical conduct. The medical man to whom is entrusted, under conditions which usually admit of no appeal save to his own conscience, the safeguarding of the health of his patient, with due consideration for the health of the whole community, has to depend upon a special code applicable to that situation. So with the legal profession which, for example, has to provide professional service for all litigants, irrespective of the popularity or unpopularity of the cause. So with the architect, who has to determine his responsibility alike to the client, to the contractor, to the workmen, to the "quantity surveyor," and to the community. So with the university professor, who has to uphold the necessity of academic freedom against the pressure of prejudice and the domination of controlling interests which care less for truth than for their own success. So with the journalist, in his peculiarly difficult situation as the servant of a propagandist press. So with the engineer, the surveyor, the accountant, or the technician generally, who has to maintain standards of service and of efficiency against the bias of profit-making. So with the manager, the secretary, or the officer of a corporation—for here business assumes most nearly the aspect of a profession—who has to reconcile the trust imposed on him by his employers with the duty he owes to himself and to those whose service he in turn controls. Out of such situations develop the written and the unwritten codes of professional ethics.

We need not assume that these codes originate from altruistic motives, nor yet condemn them because they protect the interest of the profession itself as well as the various interests which it serves. To do so would be to misunderstand the nature of any code. An ethical code is something more than the prescription of the duty of an individual towards others; in that very act it prescribes their duty towards him and makes his welfare too its aim, refuting the false disassociation of the individual and the social. But the general ethical code prescribes simply the duties of the members of a community towards one another. What gives the professional code its peculiar significance is that it prescribes also the duties of the members of a whole group towards those outside the group. It is just here that in the past ethical theory and practice alike have shown

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the greatest weakness. The group code has narrowed the sense of responsibility by refusing to admit the application of its principles beyond the group. Thereby it has weakened its own logic and its sanction, most notably in the case of national groups, which have refused to apply or even to relate their internal codes to the international world. On the other hand the attempt of professional groups to coördinate their responsibilities, relating at once the individual to the group and the group itself to the wider community, marks thus an important advance.

The problem of professional ethics, viewed as the task of coördinating responsibilities, of finding, as it were, a common centre for the various circles of interest, wider and narrower, is full of difficulty and far from being completely solved. The magnitude and the social significance of this task appear if we analyze on the one hand the character of the professional interest, and on the other the relation of that interest to the general welfare.

THE CHARACTER OF THE PROFESSIONAL INTEREST

The professional interest combines a number of elements. It includes what we may term the extrinsic interest, that devoted to the economic and social status, the reputation, authority, success and emoluments attaching to the profession as a body. It includes also the technical interest directed to the art and craft of the profession, to the maintenance and improvement of its standards of efficiency, to the quest for new and better methods and processes and to the definition and promotion of the training considered requisite for the practice of the profession. It may also include a third interest which can be classed as cultural. To illustrate, in the profession of teaching the technical interest in the system of imparting knowledge is one thing, and the cultural interest in the knowledge imparted quite another. Even more obvious is the case of the minister of religion, whose technique of ministration is as a rule very simple and whose main interest lies in the significance of the doctrine. The distinction is clear also in the spheres of the sciences and of the fine arts where the interest in truth or beauty may be discerned from the interest in the modes of investigation or of expression. In other professions it may be harder to identify the cultural as distinct from the technical interest, but if we interpret the term culture widely enough to include, for example, such objects as health and the beauty of workmanship, it may be maintained that the cultural interest belongs to every profession and is in fact one of the criteria by which to determine whether or not a given occupation is to be classed as a profession.

Now these three strands of interest are usually interwoven in the general professional interest, but sometimes they are separated and subject to the pull of opposite forces. Thus while the technical and economic interest usually go together and while, for example, the maintenance of standards usually works towards the economic advantage of the profession, these may be unfortunately disjoined. Better technique may at points be antagonistic to professional gain. The lawyer may, to take one instance, lose a source of profits by the introduction of a simpler and more efficient system of conveyancing. The architect, working on a percentage basis, may find his pecuniary advantage at variance with his professional duty to secure the best service for the least cost. Likewise, opposition may arise between the economic and the cultural interest. The teacher and the preacher

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may suffer loss from a wholehearted devotion to the spirit of truth as they conceive it. The artist, the playwright, the author, may have to choose between the ideals of their art and the more lucrative devices of popularity. Finally, the technical and the cultural interest may work apart. Routine methods and processes may dominate the professional mind to the obscuration of the ends which they should serve. A notable statement of this opposition is given in the valuable investigation into professional organization in England which was published in two supplements of the *New Statesman* (April 21 and 28, 1917). The investigation points to "the undisguised contempt in which both solicitors and barristers, notably those who have attained success in their profession and control its organization, hold, and have always held, not only all scholarship or academic learning of a professional kind, but also any theoretic or philosophical or scientific treatment of law."

Here, therefore, in the structure of the general professional interest we find a rich mine of ethical problems, still for the most part unworked but into which the growing ethical codes of the professions are commencing to delve. A still greater wealth of the material for ethical reflection is revealed when we turn next to analyze the relation of the professional interest as a whole to that of the community.

RELATION OF PROFESSIONAL INTEREST TO GENERAL WELFARE

Every organized profession avows itself to be an association existing primarily to fulfil a definite service within the community. Some codes distinguish elaborately between the various types of obligation incumbent on the members of the profession. The lawyer, for example, is declared to have specific duties to his client, to the public, to the court or to the law, to his professional brethren and to himself. It would occupy too much space to consider the interactions, harmonies, and potential conflicts of such various duties. Perhaps the least satisfactory reconciliation is that relating the interest of the client to the interest of the public, not merely in the consideration of the particular cases as they arise but still more in the adaptation of the service to the needs of the public as a whole as distinct from those of the individual clients. Thus the medical profession has incurred to many minds a serious liability, in spite of the devotion of its service to actual patients, by its failure for so long to apply the preventive side of medicine, in particular to suggest ways and means for the prevention of the needless loss of life and health and happiness caused by the general medical ignorance and helplessness of the poor.

In addition it must suffice to show that the conception of communal service is liable to be obscured alike by the general and by the specific bias of the profession. It is to the general bias that we should attribute such attempts to maintain a vested interest as may be found in the undue restriction of entrants to the profession—undue when determined by such professionally irrelevant considerations as high fees and expensive licenses; in the resistance to specialization, whether of tasks or of men, the former corresponding to the resistance to "dilution" in the trade union field; in the insistence on a too narrow orthodoxy, which would debar from professional practice men trained in a different school; in the unnecessary multiplication of tasks, of which a flagrant example is the English severance of barrister and solicitor. Another aspect of the general bias is found in the shuffling of

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responsibility under the cloak of the code. This is most marked in the public services, particularly the civil service and the army and navy—and incidentally it may be noted that the problem of professional ethics is aggravated when the profession as a whole is in the employ of the state. "An official," says M. Faguet in one of his ruthless criticisms of officialdom (*The Dread of Responsibility*), "is a man whose first and almost only duty is to have no will of his own."

THE DANGER OF A SPECIFIC GROUP BIAS

This last case brings us near to what we have called the specific bias of the profession. Each profession has a limited field, a special environment, a group psychology. Each profession tends to leave its distinctive stamp upon a man, so that it is easier in general to distinguish, say the doctor and the priest, the teacher and the judge, the writer and the man of science than it is to discern, outside their work, the electrician from the railwayman or the plumber from the machinist. The group environment creates a group bias. The man of law develops his respect for property at the risk of his respect for personal rights. The teacher is apt to make his teaching an over-narrow discipline. The priest is apt to underestimate the costs of the maintenance of sanctity. The diplomat may overvalue good form and neglect the penalty of exclusiveness. The civil servant may make a fetish of the principle of seniority, and the soldier may interpret morality as mere *esprit de corps*.

All this, however, is merely to say that group ethics will not by themselves suffice for the guidance of the group, unless they are always related to the ethical standards of the whole community. This fact has a bearing on the question of the limits of professional self-government, though we cannot discuss that here. Professional group ethics are, as a matter of fact, never isolated, and thus they are saved from the narrowness and egotism characteristic of racial group ethics. Their dangers are far more easily controlled, and their services to society, the motive underlying all codes, vastly outweigh what risks they bring. They provide a support for ethical conduct less diffused than that inspired by nationality, less exclusive than that derived from the sense of class, and less instinctive than that begotten of the family. They witness as they grow to the differentiation of community. Their growth is part of the movement by which the fulfilment of function is substituted as a social force for the tradition of birth or race, by which the activity of service supersedes the passivity of station. For all their present imperfections these codes breathe the inspiration of service instead of the inspiration of mere myth or memory. As traditional and authoritative ethics weaken in the social process, the ethics formulated in the light of function bring to the general standard of the community a continuous and creative reinforcement.

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The Interrelations of the Professions

By CHARLES HARRIS WHITAKER
Editor, the Journal of the American Institute of Architects

TO begin any discussion of the professional relation there must first be an agreement as to the meaning of professional. What is a profession? Who knows? That it is no longer what it was, we feel quite sure. Whatever group of vocations we admitted to the professional classification—if we should elect to proceed in that manner—our verdict would be that one and all of them had been tainted by that unpleasant infection commonly called "commercialism." But this verdict instantly discovers to us two things. First, that commercialism stands generally as the antithesis of professionalism; and, second—if we have the courage to look things squarely in the face—that the epithet of commercialism, so contemptuously hurled, is no more than a quiet parry by which we prefer to condemn in another those things which we recognize, resent, and yet are unwilling to admit in ourselves. The pyschologists understand this mental process very well. Governments and despots know how to capitalize it for ends of their own, and an ancient symbol likens the phenomenon to an obscuring beam in the organs of physical vision.

"COMMERCIALISM"

Now commercialism has to do with facts pecuniary. It moves and has its being wholly in the realm of measurements expressed in terms of money or a credit equivalent. When commercialism wishes to use that store of knowledge or skill which has been built up by research and which is commonly held in the keeping of the professions, it has to make terms of a pecuniary nature. These terms are either a payment in cash, or in the form of favors bestowed or obstacles removed. No man can today practise a profession without making terms with business or commerce, or without subjecting himself to the risk of financial ruin, should his conscience lead him to proclaim a faith or a believed truth not relished by the group which believe, and no doubt with deep sincerity among some, that the laws of business are immutable and that the world must be governed by them; and that, as a consequence, all knowledge and skill, inherited or acquired, must function under the control and only in such measure and direction as will fulfill the law of loan and interest, or of investment and dividend.

From this present aspect of affairs—and not by any means does the writer assert that there are no exceptions—even such an institution as the established church is not exempt, as we may agree, at least in so far as its ministers have themselves arraigned it. Doctors beseeching a legislature to make the splitting of fees a misdemeanor, offer an example of commercial infection well recognized. The history of the Inter-Church Movement is a striking example of most of the rather loosely generalized preceding statements. But they are meant to be such, for there is here no thought of attempting to support them with recorded evidence of an unassailable kind. The answer can be found or the challenge can be accepted and dealt with by any reader who can fairly apply a simple test to himself.

THE INTER-PROFESSIONAL CONFERENCE

Something more than two years ago, a group of men and women met in one

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of our large cities as a result of preceding activities by one of the recognized professions. The meeting had no object in view except to draw together a number of people who were thought to have certain sympathies and a more or less well-related attitude of mind on the subjects of professions and professionalism. There were architects, chemists, dentists, doctors, engineers, journalists, lawyers, nurses, preachers, teachers, both men and women, and, when the meeting was called to order, it is not an exaggeration to say that no one present had any idea of what the meeting would accomplish, or what form the discussion would take. It was to be, as its name implied, an Inter-Professional Conference, for discussion and counsel, for an exchange of opinion and thought, and for a possible revaluation of the professional idea or a restatement of the professional obligation. That the War had stimulated all of those present to keener searching and questioning is not to be denied, although the idea that the professional responsibilities have a common denominator is not by any means a new one.

The discussion opened by an informal statement from the presiding officer, which was followed by numerous expressions of opinion, and gradually it became evident that a profoundly similar thought was moving the majority of the minds present, a thought which bore a striking resemblance to a certain quest for freedom—that everlasting quest of small groups in all ages. It needed, apparently, no more than a sympathetic contact of mind with mind for crystallization to occur, and thus the committee, into the hands of which was given the task of translating the crystallized idea into language, found its task no more than the seeking of those words which would precisely, yet not too rigidly, define an expressed conviction.

The report of the committee was as follows:

> The object of the Inter-Professional Conference is to discover how to liberate the professions from the domination of selfish interest, both within and without the professions, to devise ways and means of better utilizing the professional heritage of knowledge and skill for the benefit of society and to create relations between the professions looking toward that end.

So far as the writer remembers, the only discussion of any importance centered around the word "interest." Should it be used in the singular or the plural? Was it intended to indict selfish interest as an individual problem or as a group or collective evil? The answer is, of course, that the word remained in its singular form, which is the best evidence to be offered in support of the belief that the conferees saw themselves not as beings set apart, but as component parts of a machine from which none can be set free until all are set free.

THE DOMINATION OF SELFISH INTEREST

In other words, with perhaps one or two exceptions, the vocationalists gathered together at Detroit gave utterance to their earnest convictions, and admitted each to the other, that they could not truly practise their callings because of the domination, to a greater or lesser degree, of a thing which they called "selfish interest." And having so declared themselves, they did not fly to remedies and panaceas. Without words and without any ado, they felt instinctively that any struggle toward liberation would, by its very nature, be a challenge to the conventional order and to the whole established habit of thought. Very wisely, and very humbly, they resolved to seek to discover how to do what they felt must be done. Should they organ-

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ize for the search? In the face of a tacit admission that all institutions and organizations had so far been impotent to check the swelling tide of selfish interest, it seemed strangely inconsistent to call yet another organization into existence.

One speaker made an impassioned plea against any save the merest commingling of men and women with a common purpose. "Let it be a personal crusade," said he. "Let us go away and come together in a year. Then we may report our adventures and tell our experiences, and in so doing, perhaps, we may find ourselves a step further on the way. Let us beware of organizations in a world where all organizations are no more than autocracies more or less thinly veiled, in a world where every idea that suffers institutionalization perishes in a miserable allegiance to the institution rather than to the idea; where almost every continuing group of beings becomes no more than a center of activity for selfish interest. Our problem is a personal one, and can never be solved by any organization."

Now the Inter-Professional Conference has passed into history. Its organization survived barely a few months, probably for the reason that the problem is not only personal, but spiritual, and the spirit of man has not yet successfully been organized. Yet the question raised is one of almost terrible moment. How can society become the beneficiary and not the mere gatherer of crumbs from the tables of professionalism? No better summary of the situation can be made than in the words of the speaker who said:

> Our knowledge and our skill are inheritances. They have been bought and paid for by the laborious struggles of men and women down through the ages, through sweat and agony, through suffering, poverty and deprivation. They are ours by inheritance only, and we are the trustees of that knowledge and skill. They belong to society. It is not a question of whether we should give back part of them as a charity. Our first obligation is to the society from which all derive them. Men have never sought to carry the treasures of knowledge to the grave. They have ever sought to give them to the world, and we, through our application and study, seek to acquire what they have given to mankind. But it was to all men that the knowledge was given. No chosen few that use it have the right to sell it for private gain to others who use it for private gain, unless in so doing they confer a true benefit upon society as a whole.

THE RESPONSIBILITY OF PROFESSIONALISM

That is the challenge being thrown down by our industrial machine, by our unworkable cities with their centralized populations, by our acres of slums, by our declining agriculture, and by the red gauntlet that is still dripping with the blood of our brothers. We have sufficient knowledge and skill to change our environment at will, to restore the balance of industry and agriculture, to abolish the frightful waste of resources, including life, which now marks our helter-skelter method of production and distribution as we pursue them under the lash of selfish interest. Yet we are incapable of so applying that knowledge except in the scantiest degree. The engineer and the architect, for example, in serving the individual selfish interest of their clients, can give only such regard to the interest of the community as the pecuniary factors involving their client will permit. There is no one to represent and defend the public interest except to a meager degree under police regulation, a safeguard quite as honored in the breach as in the observance. That function of government, the protection of the social welfare, if it has at any time existed since the

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supersession of Canonical Law by Roman Law, long ago disappeared. The forces of selfish interest are everywhere too strong, and yet—the keepers of knowledge and skill hold the key to the main gate. That is their inescapable responsibility. It is their common problem, and yet their personal problem. Whether we contemplate the desolate moral waste inflicted upon society under the guise of law and its practice, or the mass of sham and tawdry productions devised with the help of chemists and engineers, or the monstrous urban agglomerations that the scramble for land values has produced with the help of architects and the building vocationalists, we surely cannot but agree that, as trustees of their inheritance, as guardians of the common social possession, the professions have failed lamentably.

But if history means anything, it means that no civilization has a chance to survive except as the forces of knowledge and skill can remain socially victorious over selfish interest; except as all vocations rest upon the basis of that freedom which not only enables, but inspires men to put the honor of their calling above the reach of client, corporation, or government—which means, does it not, above the reach of their own weaknesses.

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The Ethics of the Legal Profession

By Henry W. Jessup, J. D.

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MANY words in common use are hard to define. Even lexicographers fail in their task. Witness the early dictionary which defined, "CAT: a small domestic animal."

The word profession has, for many Anglo-Saxon generations, called up to mind medicine, theology, law. These have been called "the learned professions." Each of them, in respect of its members, imports training, the possession of certain qualifications (variously prescribed) and an ordination vow, a Hippocratic oath or an oath of office.

The state, of which a lawyer *ex virtute jurandi* becomes an officer, at least of its judicial branch, professes to the public that he possesses certain qualifications of learning which are capable of being ascertained by official bar examiners; and, in favored localities, he is also solemnly certified (as are also bartenders and chiropodists) as possessed of good character. The attorney himself professes to such of the community as may employ him (or call upon him for gratuitous service), that he has capacity to assert and defend their legal rights in the courts of justice, or to counsel them correctly as to their rights and liabilities in their business relations.

Law is a double profession. It has an objective and a subjective phase. In its subjective aspect it possesses a life of the spirit, a high and lofty ethic; higher than the gentleman's "noblesse oblige." It is equivalent to the ordination vow of a priest in the temple of Justice. It involves subjection to self-denying ordinances and domination by a spirit of unselfish service.

How far below such a plane are those who would make it, as well as call it, a business, a means of money-making or of political preferment alone?

In another connection the writer has outlined the threefold obligations of the lawyer[1] in dealing with the question of the status of this profession in our social economy, and shown that he has a triunity of duty: to his client, to the court and to the community.

Theory of the Universal Right to Practise Law

It is assumed even in the most recent analysis of the subject [2] that in a democracy everyone has a right to enter any profession, and that it is undemocratic to erect such barriers at

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[1] *See* Address in *Hubbard Course on Legal Ethics*, Albany Law School, 1905.

[2] *See* Bulletin Number Fifteen, Carnegie Foundation for the Advancement of Teaching, entitled, *Training for the Public Profession of the Law*, 1921, by Alfred Z. Reed, pp. 469. This bulletin is prepared by a layman. It shows painstaking labor. Its facts are ably marshaled. But it illustrates the inadequacies of the grasp of a professional problem by a non-professional mind. It has been well said by Mr. Ringrose: "The errors of men who are not familiar with the practical working of legal institutions will be errors of detail." The corollary is that "professional opinions often neglect first principles" since "the practice of an art is apt to obliterate from the mind the science on which its philosophy is founded." *The Inns of Court* (1910), Hyacinth Ringrose.

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the gate as may prevent or deter the average man from entering activities which are so closely related to the political interests and life of our respective communities. To avoid this implication the author, Mr. A. Z. Reed, concludes that a unitary, that is, an undifferentiated, bar "not only cannot be made to work satisfactorily but cannot even be made to exist." He also concludes that adequate professional tests cannot be provided, to which all training schools shall conform, and agrees that there must be "types" of lawyers produced by "types" of legal education. We suppose that students would again become as in the Roman days "*studioni juris vel jurisprudentiae* (N.B. *vel* = or). They would either become mere practitioners, or rise to the foot hills of advocates or to the mountain tops of *jurisconsultus* or *jurisperitus*.

I do not believe it. There will always be *grades* of lawyers, but the English differentiation between barristers and solicitors is not one to be made here by statute, but by natural selection—and the profession, once awakened, will see to it that the right to enter it shall be so standardized as effectually to exclude from its privileges the "completely incompetent individuals" who, under our present haphazard and uncoördinated systems of bar examinations, can enter its priesthood in a state maintaining low standards and migrate, later, under our ridiculous rules of democratic comity, into the bar of a state having high standards.

At any rate, we have this theory of the universal right to practise law. It has even entered into the decisions of the highest tribunal of our country. The Supreme Court of the United States has observed, "It is undoubtedly the right of every citizen of the United States to follow any lawful calling, business or profession he may choose." But the Court most wisely continues, "subject only to such restrictions as are imposed upon all persons of like age, sex and condition." [3] Fortunately, in many of our states certain intellectual standards and, in some, qualifications of character are erected and exacted to which the applicant for admission to this particular profession must conform. It is, after all, the personal equation that counts and it is the exceptional man who enters a learned profession. Theoretically, he should have a *vocation* to the law as he is expected to have to the ministry. As St. Paul said, "Woe is me if I preach not the Gospel," and the ideal lawyer should be under the similar constraint of an all-else-excluding vocation. Otherwise he will soon find his level. Mr. Wigmore had this in mind when he styled the profession a "priesthood of Justice." [4]

The exhaustive research into the history of the profession, into the nature and extent of its organization and the association of its members into bodies, more or less self-governing and intended to impact upon the community by collective action, embodied in Bulletin Number Fifteen above referred to, makes one regret that the superficial character of its conclusions, though based upon more or less adequate premises, warrants the stricture upon it in Dean Stone's elaborate analysis of that Bulletin. This is, broadly, to the effect that it seems to recognize that, while a first-class law school is requisite for the production of a first-class lawyer, a second-class law school has a *raison d'etre* in order to meet the *democratic need for second-class lawyers*. This reminds us of the farmer who cut in his barn door a large hole for the large cat and a small hole

[3] 129 U. S. 114.

[4] Introduction to *Ethics of the Legal Profession*, by Orrin H. Carter, 1915.

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for the kitten. If the only object is to give access to the barn, it would be more economical and make a better-looking door, if no cutting of holes was done at all, and the door was left open for cat and kitten alike. Either may, if occasion arise, be chased out by the owner of the barn.[5]

THE NATURE OF THE PROFESSION

The word "profession" has been defined substantially, again by the Supreme Court of the United States (and I venture to paraphrase its language), as a vocation involving relations to the affairs of others of such nature as to require for its proper conduct an equipment of learning or skill, or both, and to warrant the community in making restrictions in respect to its exercise.[6] And when such restrictions are embodied in statutes of the state, or in rules of court, and the appropriate authority certifies A to be a member of the bar of that particular state, it *holds him out*, as already hinted above, to the community as possessing the qualifications contemplated by the statute or by the rules.[7] On the other hand, any lawyer possessing a certificate to practise in the supreme court of his state, in a particular federal court, or in the Supreme Court of the United States, *holds himself out* as possessing qualifications of efficient service to those members of the community whom he is there to serve.

The fundamental, underlying element, therefore, of professional life is this idea of an efficient, skilled service. The assumption in Bulletin Number Fifteen that under our democratic institutions the right to enter any profession is an inalienable right, must be taken with a grain of the salt of commonsense. Our records are full of descriptions of the respect or lack of respect in which lawyers have been held in the beginnings of all democratic communities. The experience has been that the trial has been made over and over again of getting along without lawyers. They have even been prohibited by law. Our colonies were at the outset peculiarly the victims of this misconception and false theory. But it soon became obvious that not only must lawyers be recognized as important factors in the community, but that bad lawyers must be repressed and suppressed and, therefore, that standards must be erected to which all lawyers must conform.

At first an oath was deemed all-sufficient. It is a sad commentary upon the profession itself that it took a century before the American bar as a whole came to the consciousness of the fact that it must in addition to such oath, erect standards or canons of ethics; that it must publish those standards to the community at large, so that men could know, not only what they could expect of lawyers, but what lawyers were expecting of one another and what the courts could require of them. And it has taken nearly a generation since this formulation of canons was first mooted for the courts themselves to depart from the narrow precedents of former decisions, which tended to restrict their power over lawyers to penal lines (that is to say, lawyers were to be disbarred only if they had broken the statute of the state forbidding the doing of some particular thing). But now, judicial decisions, east and west, are beginning to embody recognition by the judges of the fact that when a member of the bar indulges in indecent solicitation of business, or undignified advertisement

[5] But *see* Mr. Reed's rejoinder, just published, American Bar Association *Journal*, February, 1922, *p.* 114.

[6] Paraphrased from *United States* v. *Laws*, 163 U. S. 258.

[7] *In re Bergeron* 220, Mass. 472.

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of his wares, or in other breaches of our canons, the courts will assume that such a lawyer may be censured, suspended or disbarred for violation of the canons in force in the profession. We have, thank God, reached the stage when a lawyer must respect "the essential dignity of the profession" as well as the Mosaic Decalogue and the penal law of his state.

Nevertheless, the idea persists, and it is endorsed by men of high repute and standing (and this is very hard to understand), that *because* of our democratic institutions, and *because* of this "inalienable right" to practise law (if one can secure the necessary state certificate), and *because* the law is a social-service profession, then, since efficiency is the keynote of today, the law and its practice must be conducted on the basis of efficiency; that it is, after all, a business, and a money-making business, and that it would be idle for the lawyer to compete with other lawyers without the same prudent and diligent use of business methods, of "hustling," of advertising, price fixing, etc., which the ordinarily reasonable and active business man uses in the transaction of his business affairs.

Mr. Julius Henry Cohen rendered a great service to the profession by his book, *Is Law a Business or a Profession?* (1916, Banks Law Publishing Company), in which he has traced the preparedness for ethical standards and has discussed and tabulated data as to admissions and disbarments up to 1915 in the State of New York. (q.v.)

COMPENSATION FOR EXERCISE OF SKILL NOT TO BE REGULATED

Passing one step farther, it is obvious that members of a profession devoted to service and, under our institutions, entitled to compensation for such service, ought not, if we consider the liberty of the individual alone, to be regulated in respect to compensation for such service. It has been said by them of old time: "Thou shalt not muzzle the ox that treadeth out the straw," and, "The laborer is worthy of his hire." Yet this matter is a matter of common concern. Doctors have their scale of charges for office- or house-visits but surgeons, outside of occasional agitation of the subject, reserve the right to fix their own fees for special operations requiring a maximum of preparation, education, practice and skill. And so in the law, while as many lawyers render gratuitous service to poor clients as do physicians to needy patients, nevertheless, in small communities where everyone knows everyone else, it is not infrequent to find the establishment of a so-called "fee bill" or agreed regulation of minimum charges, so that no lawyer can undercut his competitors. The theory of this, however, remains that in proper cases and under special circumstances the individual lawyer is not to be limited to the minimum fixed by such tariff table.

These two elements, the profession of a given degree of skill and the right to charge for the exercise of that skill, underlie the obligation to the client and give rise to cause of action against the lawyer for malpractice; that is to say, upon demonstration of the fact that by reason of his not possessing the proper skill he has failed to perform his contract of efficient service to his client, whereby his client has been damaged, the lawyer may be held responsible for damages, as may the doctor for improper medical care or surgical treatment.

ORGANIZATIONS AMONG LAWYERS

Before discussing the nature and extent of the standards which the collective bar may promulgate as the

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norms of conduct to which all its members must conform under penalty of exclusion from the privileges and dignities of professional life, just a word as to organizations of lawyers. It is impossible here to set forth the number and type of organizations and their jurisdiction of the standards for admission to membership, financial support, etc., throughout the forty-eight states of the Union.[8] Great detail in this respect is contained in Bulletin Number Fifteen, prepared with meticulous care over a period of eight years.[9] For the purpose of this survey it is sufficient to say that the American Bar Association, with a membership of 14,111 in August, 1921, represents in one sense the aristocracy of the American bar. It is, however, an aristocracy to which any lawyer of good standing may be admitted, regardless of his estate, because the dues are nominal, $6 a year. Its meetings are held once a year; most of its work is done by conferences of its sections or by committees devoting an enormous amount of *ad interim* time to the examination of problems that are referred to them, and, in spite of all the criticisms made upon this body as not being really representative of all the associations, it impacts upon the community in many decisive ways.

In three respects alone it has justified its existence:

First, in the activity of its Committee on Uniform State Laws.[10]

Second, in the very fact that it has promulgated canons of ethics which have been adopted by the bar associations of nearly all of our states.[11] The adoption of these canons by state and even by county bar associations, the printing of such canons and the exhibition of them in court houses and other public places for the information of the other members of the community; the recognition of such standards by the courts in disbarment proceedings, or in actions against lawyers for improper or negligent conduct, have spread the interest in ethical standards over the entire country, and, in particular, have resulted in the adoption of such canons by other organizations of professional men.

The *third* respect in which this Association has justified its existence has been in its convening at the time of its own meetings representatives of all the bar associations willing to send such delegates from the different states, thus forming a nexus between, or shall we say a clearing house for, the local and the national associations. Such combining of associations in the discussion and settlement of great questions has led, notably, for instance, to such gatherings as the Conference of Bar Association Delegates recently held in Washington, February 23–24, 1922, on the subject of "Legal Education," attended by nearly four hundred delegates, representing over one hundred bar associations, and presided over at its different sessions by the Chief Justice of the United States, and by Mr. Elihu Root (whose titles of eminence as a lawyer are numerically too many to be tabulated), the conclusions of which Conference have now become a matter

[8] *See* article by Mr. Harley, page 33.

[9] *See* Bulletin Number Fifteen, Carnegie Foundation for the Advancement of Teaching, entitled *Training for the Public Professor of the Law*, 1921. *Pp.* 57–111. *See* also the Sixteenth Annual Report of the Carnegie Foundation.

[10] *See* Report of that committee in *Year Book* of the Association for the last ten years, tabulating the number of uniform laws that have been adopted in the different states as a result of its agitation.

[11] *See Report of American Bar Association, Committee on Ethics*, 1920, referring to questionnaire to judges of all the courts, state and federal, issued by that committee.

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of public knowledge, interest and record.[12]

MODIFICATIONS IN ADOPTION OF CANONS OF ETHICS

Nevertheless, here and there in the different associations the canons of the American Bar Association have seemed to be "counsels of perfection." In one respect or in another local associations have modified some particular canon. Some of them are reluctant to visit with the weight of displeasure, even to the extent of mere censure, one who "solicits business," or one who "advertises" in certain modified fashions. Others are hostile to the "contingent fee," however regulated. Thus the American bar as a whole lacks uniformity: (a) in respect to its standards as aforesaid; (b) in respect to their enforcement in disciplinary proceedings. In this second respect a contributing cause is the almost inexcusable mental attitude of many judges charged with the duty of disbarring. Witness, for example, the answer of a Kansas judge to the questionnaire issued by the Committee on Ethics of the American Bar Association to the different judges of the country, when asked as to disbarment proceedings in his court. He stated that there had been one case where a lawyer had embezzled the funds of his client and that the court had suspended proceedings "on condition that he should leave the state!" And then he added, "But I have since been informed that he has removed to Wichita, and is practising there."[13] Others, as above indicated, insist upon proof of violation of some penal statute before they will disbar a man; still others consider that mere restitution at the pistol point of disbarment proceedings to the complaining client should rehabilitate the man in the confidence of the profession, the bench, the client and the community.

We must add to this situation the attitude of the local associations, by which I mean the county bar associations, which, in an experience extending over a number of years in connection with the Committee on Grievances and the Committee on Legal Ethics of the American Bar Association, and like committees of the New York State Bar Association, I have found peculiarly unwilling to bring fellow members to the bar of justice. They will resort to great and laborious efforts at negotiation and settlement of the particular controversy that brings that man before them for discipline, and I might generalize by saying that in 90 per cent of the cases a liberal coat of whitewash is administered to the attorney complained of upon his agreeing "not to do it again." The confidence in the profession due to popular knowledge that it has canons of ethics is more than destroyed by the discovery that the canons are but *brutum fulmen*.

A notable exception to this situation must be recorded in the case of certain associations that have organized themselves for the purpose of keeping the local bar clean, and have appropriated liberal amounts to pay salaried attorneys who devote themselves especially to the task of receiving, sifting and, if necessary, presenting complaints to the appropriate court and securing the determination of that court. That has been peculiarly true in the case of the Association of the Bar of the City of New York, of the New York County Lawyers' Association, of the Kings County Bar Association in Brooklyn and of the Chicago Bar Association. Every reader can supplement this list,

[12] Readers interested in this, can write to Mr. Shippen Lewis, of the Philadelphia Bar, who was secretary of this conference.

[13] *See* also *Journal American Judicature Society*, June, 1920, on "Sanitation of the Bar in Pennsylvania."

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or find exceptions to it from his knowledge of his own community.

THE BAR AND THE ELECTION OF JUDGES

To what extent does the local bar become active and exert a real and effective influence in the nomination and election of judges?

How perfectly true, in this connection, are the words of Emory Washburn in his famous lectures on "The Study and Practice of the Law," delivered at Harvard, that "the lawyer is not only a member of a profession but a member of the community." Yet the answers to the questionnaire (of the American Bar Association) revealed the fact that in most districts it is not considered "the thing" for the bar, as a collective body, "to butt into" politics, and it seems to be assumed that the furthest extent it is "dignified and proper" to go is to have committees appointed to examine into the qualifications of the nominees of the respective political parties, *after* they have been selected, and to report on their fitness for the bench. This is usually to act too late. It certainly would seem that the influence should be exerted farther back; that the bar is best fitted to judge as to what one of its members, or more, is qualified by education and temperament for the judicial office and, if need be, to force such nominations upon the local political organizations.

The fact remains that the reports made by committees on judicial nominations, even when given the publicity that they are by the press, in such a center, say, as New York City, fail to impact upon the consciousness of the large majority of voters, who do not read the papers in which these reports are given publicity and who would not pay much attention to them if they did. Allowing for differences of political conviction, opinion and affiliation, is it conceivable that the influence of two bar associations, having an aggregate membership of six or seven thousand out of the ten or twelve thousand lawyers in a particular political unit (if exerted directly upon *organizations*, that is, upon the persons who, after all, in spite of direct primary laws and various ballot reforms, control nominations in the various parties capable of electing a candidate), would be without its effect, and could fail to insure high standards in the qualifications of those nominated and elected to judicial office?

When one rereads that great argument of Rufus Choate, made before the Massachusetts Constitutional Convention, in which he argues for the appointment of judges as distinct from their election by popular vote, one has to marvel indeed at the high standards of dignity, impartiality and efficiency nevertheless manifested by the elective judiciary of our great municipal centers. In spite of petty grievances, disappointed litigants and charges of political sub-cellar influence, the cases of complaints against judges before bar associations or in impeachment proceedings are gratifyingly few, both in states where the judiciary is appointed and in those where it is a political office to be grasped at.

CLEANING THE AUGEAN STABLES

It is impossible to give a statistical survey of the number of trials and convictions for violation of ethical standards covering the various states of the Union. A tabulation of them would cover many pages and, in the character of the penalties imposed to distinguish illegal from immoral or unethical acts, would require a volume in itself. Anyone interested in any particular state has only to ask some legal friend to communicate with the grievance committee of that state's

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bar association to secure such data. The fact is probably the same in all the states, that conviction of a penal offense operates to disbar a lawyer; that, nevertheless, it is usually necessary to inform the appropriate tribunal of the fact of his conviction and have his name stricken from the roll. The question has arisen from time to time whether a pardon for the offense automatically reinstates the attorney. In my opinion it does not, but application must be made for such reinstatement. If the offender so pardoned should practise without such formal reinstatement he is liable to further discipline and prosecution. The violation of penal laws without actual conviction is sufficient proof of obliquity of moral character to warrant any court in disbarring.

It is when we come to the finer shades of lack of ethical perception that grievance committees find difficulty sometimes in persuading the courts to act with sufficient firmness. In the appendix to this volume appear canons of ethics, not only of the American Bar Association but of the Commercial Law League of America. The path of the collection lawyer towards ethical purity has been an arduous climb. The trouble has been to differentiate between collection agencies and their attorneys. It has aroused vehement discussion of the propriety of the division of any professional fee with a layman, which has been criticized as affording a cloak whereby a lawyer, by incorporating a collection agency, can resort to means of solicitation of business in which the corporation, having no soul, is free to indulge, and from which he reaps the harvest or agrees to divide his fees in order to secure the employment.

A notable contribution to the welfare of the profession generally, and to this branch of it in particular, was made when the New York County Lawyers' Association, in a conference which lasted months, at which these practices were discussed with representatives of the "commercial lawyers," finally, in its notable answer to Question No. 47, laid down certain rules or principles governing the conduct of such attorneys.

Ignorance of ethical standards on the part of a very large number of members of the bar, whose business is small and of whose income collections afford the fundamental, was shown in the reports of one of the conferences of this Commercial Law League held at Atlantic City. One member, it seems, said he had heard so much about "ethics" at that meeting that he decided he would try to find out what it meant, so he asked his waiter at the Chalfonte, "Sam, do you know what this word 'ethics' means?" "I reckon I do," replied Sam. "What is it?" asked the inquiring member, and Sam said, "Just about the same as that word 'etiquette' which tells you there is certain things you mustn't do, *if anybody is looking.*"

This incident pitifully illustrates the absolute necessity of having bench and bar alike ingrained with the conviction that these standards of ethical conduct are norms to which all lawyers must conform, whether the lawyer is a general practitioner, a collection lawyer, a patent-lawyer, a negligence lawyer or a corporation lawyer. Specialization releases from no obligation. This is not to say, however, that every lawyer violating any canon must be disbarred. There are many cases where a lawyer through zeal or ignorance offends against the essential dignity of the profession but, being brought to book and censured, may be sufficiently shocked into appreciation of the standards to remain or become a useful member of the community.

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EXTENSION OF IDEA OF OBLIGATION FOR PUBLIC SERVICE

Whatever the temporary criticism of the profession in popular estimation may be, the fact is that all really critical observers of our social conditions have recorded their conviction, as did De Tocqueville, when he said, for example, that the influence which members of the legal profession "exercise in the government is the most powerful existing security against the excesses of democracy." In another sentence he refers to the bar as the "most powerful if not the only counterpoise to the democratic element." A similar conviction is registered in the appeal which is made to the New York State Bar Association in support of an International Bar Association, organized in Japan by Dr. Rokuichiro Masujima, ex-President of that Association, Honorary Member of the New York State Bar Association, Barrister at Law of the Middle Temple, as well as an honored member of the Japanese bar. His contention is that the combined influence of lawyers all over the world, devoted to the principles of the common law, should be a guaranty in the human family that principles of common justice will through their influence leaven the political world.

St. Paul, in his great summary of the Christian martyrs, began his appendix with the words, "Time would fail me to tell of Barak,—and of Gideon," and, similarly, to call the roll of members of the American bar who have dominated the public affairs of our nation would be to make of this publication an encyclopaedia of names.

This fundamental idea of public service is expressed by Shakespeare himself in *As You Like It.* We all recall the line, "When labor sweats for *duty*, not for *meed*."

In many of the lectures delivered on the Hubbard Foundation at the Albany Law School on the subject of "Legal Ethics," one distinguished speaker after another has emphasized the fact that the great lawyer is not the man who enters the profession as a means to acquire a fortune. He must enter it, as we have noted above, as a vocation, with the idea of rendering service. He must have the spirit of Lincoln as contrasted with the spirit of Webster, great advocate though he was; for even in the Girard Will case, when Webster could secure no present refresher or retainer, he exacted a contingent fee agreement.[14]

NEED FOR PROPAGANDA

Bearing these considerations in mind, there is no question but that there must be propaganda. When the canons of the American Bar Association had not yet been adopted by the Association, or, having been adopted, had not yet been endorsed or adopted by various state associations, there was a great deal of discussion and propaganda. In the City of New York lawyers interested in this matter not only conducted this propaganda in legal magazines and in the public prints but volunteered, and were actually appointed, to deliver addresses on the subject at various Y. M. C. A. centers, in the Phipps Settlement, in Cooper Union, and other public places under the general title of "What the Ordinary Citizen Is Entitled to Expect and Exact of His Lawyer in the Way of Fidelity, Honesty, Diligence, etc."

The late General Thomas H. Hubbard by gift in his lifetime established a lectureship or foundation at Albany Law School, to which every year one or more speakers of influence is appointed to indoctrinate the students of

[14] A copy of this was furnished by me to and published by the *New York Law Journal*, some years ago.

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that particular school in respect to ethical standards. This example might well be followed in other schools. A determined effort has been made by committees of ethics in different states to see to it that either by persuasion or by the compulsion of rules of court, law schools expecting their certificate of graduation to be accepted by bar examiners as the equivalent of a clerkship or prescribed years of study, should prescribe and faithfully carry out a certain number of hours of lectures upon the subject of legal ethics. Dean Costigan endeavored to fill this need. He made an exhaustive examination of the sources of the standards or traditions showing the growth of the rules governing conduct becoming a member of the bar, and collated with that the answers to questions given out by the New York County Lawyers' Committee (the clinical reports of which have a circulation all over the world and have in but one or two instances occasioned adverse comment or complaint). This treatise [15] contains a most fascinating history of the entire subject. Obviously this matter is intimately and vitally connected with the nature of legal education. And it is surprising that those who come in contact with the eager youth who are looking forward to qualifying for this great social service, so often prove impatient of the suggestion that their teaching should have this moral side line, or of the more extreme requirement that the ethical viewpoint should underlie all their instruction as to the methods and practice of the law. One Dean replied to a letter from me in this regard that he had no cure for souls. What a pedagogic heresy! Every teacher has the fashioning or at least the polishing of a soul.

[15] *Cases on Legal Ethics* in the American Case Book Series, 1917, West Publishing Co.

In order to summarize this discussion the following is submitted as a redaction to fundamental principles of the thirty-two canons of the American Bar Association:

A Decalogue of the Professional Obligations of the Lawyer

(1) As an officer sworn to uphold the Constitution and to the proper enforcement of the law, the lawyer should by his conduct and counsel exemplify the law-abiding spirit and refrain even in his private life from anything contrary to the spirit of the moral and statute law.

(2) In his relation to the courts, the lawyer should in his conduct maintain their dignity by respectful address, by punctilious discharge of all forensic duty, and by abstaining from all attempts to curry favor, or from the appearance even of using personal relations to secure professional advantage.

(3) In his relations to clients, the lawyer's duty arises from the confidence reposed in his learning or ability; for which he is to be paid. Therefore:

(a) In the conduct of unlitigated business he owes a scrupulous fidelity to the client's highest interest and must seek no advantage or profit to himself outside of his reasonable compensation.

(b) In advising litigation he must be guided by his own (or counsel's) judgment of the law applicable to the points in issue. He should never countenance by acceptance of a retainer unjust, useless or oppressive suits, or consent to the interposition of merely dilatory, false, or sham defenses.

(c) In actual litigation, he may use all procedure provided by law appropriate to the protection of

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his client's interests; he must be alert and diligent in prosecution; vigilant and careful in defense; refrain from any attempt to deceive a court or jury; be courteous to his fellow lawyers, and obliging in matters not inconsistent with his client's rights.

(4) The lawyer must not violate his client's confidence unless, in a proper case, compelled so to do under oath. He must not use knowledge so gained to his client's undoing or disadvantage and, if entrusted with money or property, he is in the highest degree a trustee and liable professionally for any failure to administer the trust reposed in him with scrupulous fidelity and capacity.

(5) The lawyer is always entitled to his reasonable compensation; this may be contracted for with the client provided no advantage be taken of his ignorance or necessities. Contingent fees, where not unconscionable in amount, are proper if the client desire such form of compensation. But in all cases he must avoid even the appearance of champerty or maintenance.

(6) A lawyer employed for or assigned to the defense of one accused of crime is, even though apprised of his guilt, bound by his duty to ensure a fair trial and to prevent conviction save pursuant to the law in that case made and provided.

(7) The lawyer should not solicit, or permit others to solicit for him, any professional employment. No division of fees or agreement therefor is proper except with fellow lawyers based on a division of service. Self-advertisement is commercial in spirit and tends to lower the sense of professional dignity.

(8) In his relation to the community of which he is a citizen the lawyer occupies a position of peculiar responsibility. His respect for the law and the courts in which it should be administered should make him fearless to expose and attack any breach of judicial integrity. So also he must be vigilant to assist in purging the bar of unworthy members. He should be quick to attack any abuse of process of law or any invasion of the rights to life and liberty guaranteed to all by the Constitution.

(9) If invested with public office he is bound to a higher efficiency of service by reason of his knowledge of the law. If he serves as a District Attorney he represents the people of the state. He is sworn to enforce the law but cannot stoop to oppression or injustice—such as the suppression of evidence or the secreting of witnesses who might tend to establish the innocence of one he is prosecuting.

(10) If elevated to the bench his obligations become intensified. In the discharge of his judicial duties he should be studious, patient, thorough, punctual, just and impartial, courteous and fearless, regardless of public clamor or private influence.

CANONS OF JUDICIAL ETHICS

Since judges are, under our form of government, a part of the governmental power, and sworn to uphold the Constitution, and chosen to interpret, apply and enforce existing laws, it is clear that their ethical obligations are greater than those of their brethren at the bar, from whom they have been thus set apart.

These latter have a primary duty to a client opposed to the client of another in interest, and this duty modifies at times their duties to the court and to the community.

A committee of the American Bar Association, recently appointed, of which the Chief Justice of the United States, it is believed, is to be the chairman, are to engage in the task of

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formulating canons for the judiciary.[16]

That task will require time for its performance.

For the purposes of this symposium, however, the following may be proffered as a nucleus for elaboration.

A PROPOSAL FOR AN ETHICAL DECALOGUE FOR JUDICIARY

I. Having sworn to uphold the Constitution and being charged with the solemn task of administering justice among his fellow citizens under the law, the judge should be *juris peritus*, learned in the letter and spirit of the Constitution and of the statutes enacted in conformity therewith—and should keep himself constantly informed and in touch with the social development of the community he is to serve, in order that he may adequately apply that learning to the varying needs that emerge in the controversies submitted to him for arbitrament.

II. To learning he must add impartiality. "He must not respect persons in judgment." In holding the scales of Justice he must not allow personal or political hostility, on the one hand, or friendships or prejudice, on the other, to weigh in either balance. Whether the parties before him are friends or foes, or whether they be known to him or unknown, he must be blind to considerations other than those constituting or arising from their respective rights or obligations under the law.

III. Whatever the degree of his learning, and impartiality, he must in the highest degree possess and preserve a character free of reproach. Himself a priest in the Temple of Justice, he must scrupulously observe the moralities and obey the laws as a citizen, and not arrogate to himself any right to be above them or free from their common operation.

IV. His judicial character presupposes absolute integrity. He should be honest in his personal dealings, and must not put himself under pecuniary obligations before his election, or subsequently, to those who may appear before his court.

His service is a self-denying ordinance, and he should abstain from even the appearance of the evil of profiting by information secured *ex virtute officii* to speculate or invest on the strength of his knowledge thus acquired.

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[16] Since writing this article, the author has received a letter from Mr. Charles A. Boston, Chairman of the Committee on Professional Ethics of the New York County Lawyers' Association, the following excerpts of which will be of interest to the general reader.

"In response to your recent request that I contribute something to the forthcoming number of the *Annals* of the American Academy of Political and Social Science, it seems to me that any contribution by me at this time, other than is contained in this letter, would be premature, because the subject of the formulation of Canons of Judicial Ethics by the American Bar Association, to supplement the Canons of Ethics approved by it in 1908, has been referred by the Executive Committee of that Association to a Special Committee which will take the matter under consideration, and I do not feel that I can properly anticipate the action of that Committee.

"I was recently advised by the President of the American Bar Association that he had designated for membership on the Committee Chief Justice Taft, ex-Senator George Sutherland of Utah, and myself, and that two vacancies remained to be filled from members of the judiciary.

"I do not think it amiss, however, to say that Mr. Everett V. Abbot of this City, and myself, jointly contributed an article on 'The Judiciary and the Administration of the Law' to the *American Law Review* for July-August, 1911, from which I quote the following suggestions in respect to Canons of Judicial Ethics:

"'They should clearly and concisely make it known that the judge should so administer the law in the settlement of controversies as to show that he appreciates his position as honorable of itself and honorably to be maintained; that his conduct should uniformly be that of a gentleman and an officer and for the good of the service; that he should be ever conscious of his responsibilities, attentive to his duties,

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"He shall do everything for justice, nothing for himself."[17]

V. Whether his office be appointive or elective, he should not be swayed in judgment by hopes or fears regarding the continuity of his official service.

In making appointments in aid of the administration of justice, such as appointments of receivers, referees, special guardians, appraisers and the like, he must, on the one hand, avoid nepotism and, on the other, not surrender his duty of selection to any political or other dictator. Those whom he selects act in his place and stead, in relieving his judicial time, and he is responsible for their integrity, fidelity and industry, as for his own.

VI. Charged with the duty of acting as a check in the interests of the people against aggressions or usurpations of power by either executive or legislative branches of the government, he should be fearless to assert his power irrespective of the apprehended effect of antagonisms, and hostilities thus engendered. But here also he must be impartial and sustain if need be these coequal agencies of government, in the proper use of powers constitutionally bestowed upon either.

VII. He must not allow his judgment to be swayed by the magnitude or smallness of the litigant's interest, or by the insignificance or prominence of his advocate. Intent on ascertaining the truth and reaching an adequate and just decision, he must not fear to protect a party before him from the ignorance or negligence of his own attorney, or neglect adequately to guide and instruct juries in the exercise of their peculiar functions.

VIII. He must wear the ermine with dignity. As the incarnation of justice, he must, when discharging his judicial functions, be free from temper, though he may indulge in righteous indignation if perjury be attempted by witnesses, or if counsel seek to deceive or mislead the court or jury.

He owes to the people, punctuality, at whatever cost of personal inconvenience, calmness, patience and forbearance, lest he be diverted from the issues to be resolved—courtesy to all before him—alertness to testimony and argument, since inattention is the highest discourtesy, is a thief of time and an earmark of inefficiency.

He must cultivate a capacity for quick decision. Habits of indecision must be sedulously overcome. He must not delay by slothfulness of mind or body, the judgment to which a party is entitled.

IX. To be learned, to be honest, to be fair and to be no respecter of persons is still not enough. *He must be believed such*, and so possess the perfect confidence of the community. In such case he may preserve and enjoy his personal intimacies and friendships unimpaired. He may achieve the affection of the bar and the respect of the public, and enjoy that loving veneration which the "Book of Job" records as the meed of the upright judge.

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assiduous in their performance, and avoid delay as far as possible; that he should be scrupulous to free himself from all improper influences and from all appearance of being improperly or corruptly influenced; that he should be studiously regardful of the rights of litigants; that he should be an independent and representative citizen, rather than a partisan; that he should use the necessary patronage of his office as a public trust, and that in the selection of referees, receivers, or other judicial appointees he should conscientiously appoint only men known to him to be of integrity and fitness for the duty assigned; and if he is permitted to practice at the bar, or to prosecute private business, he should not permit such matters to interfere with the prompt and proper performance of his judicial duties.'"

[17] Rufus Choates added to the quoted words: "Nothing for his friend, nothing for his patron, *nothing for his sovereign*."

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X. None the less is he a citizen, and bound to share the common burden of responsibility for the purity of the common weal.

He must not shirk a proper performance of such duties nor hide behind the judicial gown in times of revolt against oppression or corruption or in crises of social change. His life must be personally, politically and judicially *teres atque rotundus.*

CONCLUSIONS

In that remarkable book seeking to voice the desire of England for a higher and more spiritualized life, the author of *The Glass of Fashion* has embodied that ideal which must permeate every profession that identifies the moralities of that profession with the very character of the being of the man who professes it. His illustration of the expectation of honesty from those who serve him, by even a Bolshevik of the most criminal type, illustrates the fundamental idea of what the community expects of a man of character, and no man has a right, even in a democracy, to belong to a learned or skilled profession who has not the fundamentals of high character which may be expected to develop into fullness by the very experiences of his service.

What conclusions are we to draw?

I. That, in any democracy, whether loosely organized or highly articulated, public servants must, in theory, be controlled by lofty standards of duty.

II. That the people are entitled to know what those standards are, *and where there are none, to prescribe them.*

III. That conformity to those standards must be enforceable in a proper tribunal.

IV. *That it is to the highest interest of the profession itself* that every case of violation of its ethical standards be investigated and all offenders dealt with "lest the *res publica* suffer."

V. That the courts, when unspurred by a bar of high ideals, have failed adequately to regulate professional conduct, and therefore the bar must be so organized as to be self-disciplinary. And this even at the risk of appearing to become an aristocracy, or an undemocratic guild.

VI. That judges, as well as lawyers, are to conform their conduct to even more exacting ethical standards.

The Need for Standards of Ethics for Judges

By EDWARD A. HARRIMAN

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LEGAL ethics is defined in Rawle's third revision of Bouvier's *Law Dictionary* as follows: "That branch of moral science which treats of the duties which a member of the legal profession owes to the public, to the court, to his professional brethren, and to his client." On the subject of judicial ethics there is much confusion, by reason of the fact that a judge occupies a dual position. He is, first, a judicial officer of the state or of the United States; and, second, in most cases, a member of the legal profession. It is not at all essential, however, that a judge should be a member of the legal profession and his membership in that profession is, therefore, an absolutely distinct thing from his judicial office. The highest court in England, the House of Lords, in its original form was composed principally of lay peers. The present House of Lords in its judicial capacity is

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limited in membership to the law lords. The highest court in New York State was formerly the senate of that state, largely composed of laymen. In New Jersey lay judges have not been uncommon. The office of justice of the peace is probably held as often by laymen as by lawyers; in fact, in England the justice of the peace was usually a layman, whereas the lawyer was only his clerk.

PRESENT STATUS OF RULES OF CONDUCT FOR THE BENCH

Now, any standard of conduct for the members of an organization must necessarily be imposed on those members either by their own action or consent, or else by a superior power. Standards of ethics for judges, therefore, must be imposed on those judges either by their own action or consent, or by a superior power. It is, therefore, quite out of the question for any bar association to enact standards of ethics for judges. The opinion of the bar association may be absolutely sound, and the code of ethics which it chooses to formulate for judges may be absolutely perfect. The difficulty is not with the rules which the bar may undertake to prescribe for the bench, but with the jurisdiction of the bar to make any rules whatever. The function of the bar in such case is merely advisory. Nevertheless this function should be exercised to its fullest extent.

What standard of ethics has been prescribed for judges by the sovereign power of the state or of the United States? The standard in general is extremely vague. The Federal Constitution uses the words "good behavior." In addition to the general phrase of "high crimes and misdemeanors," the specific prohibitions in the state constitutions are few. Corruption and malfeasance in office, and refusal to perform the duties of the office; drunkenness; acceptance of passes; and change of residence from the district in which the judge was elected, are the principal things prohibited. There is a very common provision that a judge shall not be eligible for another office, but the effect of this provision seems to be merely a disqualification of the judge for the additional office.

What rules of ethics have judges undertaken to lay down for their own conduct? So far as the writer is aware, no action whatever has been taken by any body of judges in this matter. In 1917 the Committee on Professional Ethics of the American Bar Association made the following recommendation:

> That the suggestion of the propriety of the formulation and promulgation of canons for the judiciary be referred to the Judiciary Section of this Association for consideration in order, if the way be clear, to the appointment of a committee to take the matter under advisement.

At the meeting of the Judiciary Section in 1918, the recommendation referred to the Judiciary Section was not even considered.[1]

DO JUDGES NEED A CODE OF ETHICS?

Is there any need for a code of ethics for judges? The phrase "good behavior" is, of course, extremely vague. It is no vaguer, however, than the phrase in the articles of war by which an officer in the military service of the United States can be tried by court martial for "conduct unbecoming an officer and a gentleman." The vagueness of the phrase is by no means sufficient ground in itself for a more specific statement of the duties of a judge. It is submitted, however, that a situation has recently arisen which

[1] 1918 Report, *pp.* 466–469.

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calls for a clearer definition of a judge's duties in some particulars. At the last meeting of the American Bar Association, Mr. Hampton L. Carson, a former president of the Association, presented the following resolution upon the unanimous vote of the executive committee:

Resolved, That the conduct of Kenesaw M. Landis in engaging in private employment and accepting private emolument while holding the position of a Federal Judge and receiving a salary from the Federal Government, meets with our unqualified condemnation, as conduct unworthy of the office of Judge, derogatory to the dignity of the Bench, and undermining public confidence in the independence of the judiciary.

Mr. Carson then read Article IV of the Constitution of the American Bar Association which provides, among other things, that one of the objects of the Association shall be to "uphold the honor of the profession of the law." Of what use was it for the Association to prescribe canons of ethics for the regulation of the conduct of active practitioners, if it knew that a man on whom the judicial ermine had fallen had yielded to the temptations of avarice and private gain? That a Federal judge drawing his salary of $7,500 a year from the Federal Treasury should take $42,500 a year from an allied club of baseball players was simply to drag the ermine in the mire. Although it must be that impeachment proceedings might not reach him, yet from every bar in this united country there rose up the withering scorn of the profession against the man who had stained its honor. Those who came to deliberate upon that which touches the honor of the profession would go away and hang their heads in shame if they did not rebuke such conduct.

The resolution of Mr. Carson was adopted by the Association. That the Association had a right to express its opinion, is unquestionable. The only body having jurisdiction to inquire into the conduct of that official, is Congress, but any organization is entitled to express its opinion to Congress and to urge any action it may desire. It is for Congress to decide what weight attaches to the different opinions so expressed. Now, as a matter of fact, Congress has had the benefit of the opinion of the American Bar Association, and of the opinion of the National Baseball Association and it has chosen to follow the latter.

It is only fair to assume that the inaction of Congress in the Landis case is due to the fact that the American people as a whole are more in sympathy with the standards of judicial conduct indorsed by the National Baseball Association than with those indorsed by the American Bar Association.

NEED FOR SOVEREIGN POWER TO PRESCRIBE STANDARD OF JUDICIAL ETHICS[2]

Now, while the bar has no jurisdiction over the conduct of the bench, it is undoubtedly a great public misfortune when any judge so conducts himself as to receive the censure of the bar. There is no question as to what the judge in this particular case has done, but the baseball people think that what he has done is right, and the lawyers think that it is wrong. From the fact that Congress follows the opinion of the baseball magnates rather than that of the leaders of the bar, it is clear, either that the judgment of the bar is wrong, or else that its judgment is right but that the people at large have not been sufficiently educated to appreciate the standard of ethics upheld by the bar.

[2] For a proposed code of ethics for judges see the article by Mr. Jessup, page 27.

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It seems highly desirable, therefore, that the sovereign power, which, in the case of the Federal judges, is the United States, should define more clearly the duties of a judge with reference to the acceptance of employment in other occupations. Whatever resolutions the bar may pass, it is useless to say that Judge Landis has violated any standard of judicial ethics, because no such standard has been prescribed, either by Congress or by the judges themselves, and it is not within the jurisdiction of the bar to prescribe a standard of ethics for the bench. That a proper standard of judicial ethics would prevent a judge from acting as Judge Landis has done, is the opinion of most lawyers, but that there is not at the present time any such existing standard is absolutely proved by the action, or rather the inaction, of Congress, which clearly establishes the fact that, in popular opinion, Judge Landis has done nothing to justify his removal from the bench.

The function of the bar, therefore, in the matter of judicial ethics, must be educational, and education is a slow process. It would be unwise to make rules that are too general in regard to the performance by a judge of non-judicial work. The best practical method of dealing with this subject would be to provide that a judge shall not engage in any other occupation without the consent of some administrative authority, such as, for example, the Chief Justice of the United States. The freedom of judges from all legislative and executive control is a freedom accompanied with responsibility. In most cases this responsibility is clearly recognized. If a particular judge is more influenced by his personal advantage than by the dignity of his office, some administrative control over that judge is required, and at present no such administrative control exists, while the remedy by impeachment, as the Landis case has shown, is entirely inadequate.

DEGENERATION OF THE IDEA OF SOVEREIGNTY

The Landis case is symptomatic of the degeneration of the idea of sovereignty portrayed by Laski in his theory of the multiple state. Under a monarchy, service of the sovereign is the most important function. Under our American democracy, it is clear that our democratic sovereign regards the management of moving pictures as of more importance than the management of the Treasury or the Post-Office Department, and the administration of baseball as of more importance than the administration of justice. Mr. Carson speaks of "dragging the judicial ermine in the mire." As a matter of fact, the judicial ermine is simply used to dust off the home plate; which, to the people at large, seems a more important function than dusting off a law book. This degeneration of the idea of sovereignty is apparent in many ways. The other day a college professor was quoted as saying that any man who had more than 15 per cent of patriotism was a nuisance, asserting that 85 per cent of a citizen's loyalty should be devoted to other organizations than his country. *Panem et circenses* was the motto of the Roman populace when the Twelve Tables had been forgotten. Those who do not share Henry Ford's opinion that history is all bunk, may find an interesting predecent in Roman history as to the effect of a popular belief that amusements are more important than laws.

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Group Organizations Among Lawyers

By HERBERT HARLEY
Secretary, American Judicature Society, Chicago, Illinois

THERE is a tradition in the legal profession of a golden age. No living lawyer can testify to the existence of a golden age from personal knowledge. If ever there was such a fortunate era it must have been before the Civil War. However skeptical of tradition we may be, we can admit that for a generation before the Civil War the lawyer was better adapted to his environment than he is now.

In that period the law was relatively simple and static. It is the amazing complexity of twentieth century industrial and social life which has brought about the inundation of statute law and the welter of decisions. Professional training which today would imply mediocrity may have then appeared quite adequate.

The lawyer was not subject to such powerful and insidious influences in that simpler age. There were few private interests strong enough to keep a "house lawyer," one under exclusive retainer on an annual contract. There were no corporations existing to do the traditional work of the office lawyer, advertising for clients and hiring lawyers by the year. The country was expanding rapidly. There was enough practice in most places to provide a living. At any rate, the fratricidal competition of later days, with correspondence courses and proprietary law schools turning out graduates far in excess of community needs, had not yet appeared.

There were always temptations, but with fewer lawyers the position of the lawyer was a conspicuous one and the theory that the court was responsible for the ethical conduct of practitioners was still in working condition. It has validity yet in primitive regions. When lawyers had to rely on a wide range of clientage they were free to refuse embarrassing retainers. There was not the moral overstrain, imposed in these days upon the lawyer who has but one, or two, or at most three clients and must win his suits for his own salvation.

This older profession, limited in numbers and independent in mind and morals, felt some contempt for business. Or, if this is putting it too strongly, let us say that the bar at least exalted the law and its servants. There were few others in the community who could assume the dignity of learning and influence. The lesser competition set the lawyer on a conspicuous level. The earnings which now would seem meager were then ample in view of the respect which the calling compelled.

THE OLDER AMERICAN TRADITION

It is not safe to go much farther back in the quest for the golden age. In certain of the colonies laws were enacted to prevent the existence of a bar. After the Constitution was adopted there were states in which ignorant laymen attempted to administer justice from the bench. From the first, the American bar had to make its way against hostile philosophy. This explains why it never possessed the organic powers enjoyed in other lands. In Belgium, for instance, the bar asserts its independence of both legislature and judiciary. In all other countries there is an organization of the bar which is all-inclusive and which has effective machinery for maintaining standards. The powers to admit

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to practice and to expel are exercised by the bar itself. In consequence, the bar is primarily responsible for ethical conduct and it is able to discharge this responsibility.

The American tradition is that the bar exists to assist the courts in the administration of justice and hence that lawyers are "officers of the court." This makes the judges responsible. It is obvious, however, that the lawyer's rôle is larger than assisting the court. The lawyer interprets the law without reference to specific conflicts of rights. Many lawyers, indeed, rarely appear in court. And the courts lack the power to acquit themselves of the presumed responsibility. There are numerous "independent" judges but little judicial solidarity. In most states judges are elected and lawyers play a large part in nominating and electing. The power of the judge over the jury has been restricted by statute very generally, a restriction which exalts the position of the advocate.

There must be somewhere in the state or in society power to establish standards of professional conduct with responsibility for enforcing them. It is easy to understand the practical failure of the courts in this field. And it is too delicate a matter for legislative control. An enacted code of rules would merely invite unethical lawyers to devise loopholes in the law.

There remains, then, the matter of professional self-regulation which in other countries has served for centuries to develop and maintain bars which, compared with ours, are free from censure.

As a matter of fact, when the older tradition failed, the bar of the typical state began to move instinctively toward the principle of self-discipline through organization. This movement was slow to begin but has been continuous for forty years and recently has been accelerated by a conviction that the golden age has been succeeded by an age of brass. There are strong indications at this time that the bar is working its way out of chaos and that the future will see conditions very much better than those now prevailing. It is the purpose of this article to trace this development.

EARLY ATTEMPTS TO ORGANIZE THE BAR

For fully half our national history there were practically no attempts to organize the bar. The first associations arose in the larger cities, and then, as means for travel were improved and acquaintanceship was extended, state-wide association began. We do not pretend that the avowed purpose was to maintain standards. The leading motive was purely social. The bar was not immune from the modern instinct for organization, though somewhat resistant. There was also the need and the opportunity for establishing honors to mark professional success, something to confer and something to strive for.

An essential need was that of preserving standards, even though unrecognized at the inception of the movement. For lawyers of social inclination and professional pride who joined associations were thus enabled to separate themselves from the unorganized part of the profession upon which public suspicion and reproach rested. Unable to compel a fellow practitioner to be ethical, or even decent, the conscientious lawyer could at least walk on the other side of the street. Perhaps this was done to escape responsibility, but its actual effect was to assume it.

Even the loose and meager association afforded a point for effort. A responsible profession was evolving like a planet from nebular chaos. And

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having presumed, in a measure, to stand for the profession, the associations had perforce to devise means for acquitting themselves.

In 1878 there were eight city and eight state bar associations in twelve states. In this year the American Bar Association was formed by the meeting of seventy-five lawyers residing in twenty-one states. There were then 60,000 lawyers in the United States.

In 1921 the American Bar Association reached a membership of 16,000. For a number of years every state except Delaware has had its state bar association. Similar bodies exist in Alaska, Hawaii, Porto Rico and the Far East as parts of the system. Over 800 city and county associations are listed by the Conference of Bar Association Delegates, a *liason* body created in 1916 by the American Bar Association.

THE LOCAL ASSOCIATIONS

There is a remarkable similarity among local associations. In all of them membership is open to any lawyer not especially subject to objection. (In the southern states, and in most northern states, Negro lawyers and white lawyers associated with them in practice, are excluded, a reservation which illustrates very well the social basis of organization.) Practically all are seeking growth. There is nowhere any organic relation between the state and local associations, or the state and national, except that in Washington recently the state association has been accepting the entire membership of local associations which conform to its requirements. Elsewhere, a lawyer may belong to any one, or any two, or to all three types in this hierarchy.

The interests of the various associations, as shown by the titles of addresses delivered, is vague and diffuse. Papers are read on trial by jury, on John Marshall and Daniel Webster, the lawyer's oath and the Monroe Doctrine. There is a disposition to take an interest in the development of law, especially through legislation. Decisions are rarely analyzed or criticized. In many of the local associations the annual or quarterly dinner transcends all other activities. In small cities the local association is perfunctory, rarely meeting except to deplore a death or honor a judge.

In some of the larger cities the associations have for a long time been engaged in definite useful activities. The Association of the Bar of the City of New York is the oldest and strongest. For over eighteen years it has maintained a salaried force to prosecute delinquent members of the profession. The New York County Lawyers' Association has done similar work and in some years the two bodies have devoted $25,000 to this odious work.

THE LEGAL ETHICS CLINIC

The latter body originated the legal ethics clinic, which is one of the most significant movements in the entire history of the American bar. It grew out of the realization that many minor infractions of standards were due more to ignorance than intention. The development of business was changing the nature of the lawyer's services and the profession was becoming flooded with half-educated young men who had no means for acquiring the professional point of view. Spurred on by necessity these young men often overstepped ethical lines without being aware of it. Not only this, but new situations were constantly arising to which well-informed and conscientious lawyers hesitated to apply established principles, on the theory that no man is a safe judge of his own interests.

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So a committee, headed by Mr. Charles A. Boston,[1] was created to answer questions and, through the determination of nice points based upon actual facts and the wide publication of questions and answers, a common law of ethics was evolved, which is worth more than a thousand hortative addresses on the sacredness of the lawyer's oath. The success of the legal ethics clinic illustrates very well how needs and responsibilities may be met when organic means exist. The determination of ethical rules is safer in the hands of the bar than in the hands of judges. There is always danger that judicial control may infringe the needed independence of the bar. External control from any source must be resisted on general principles. But when the profession itself determines standards the work is done by those whose personal standards are high and who place the welfare of the bar ahead of any individual interests.

The legal clinic idea has spread to Illinois and will before long be a familiar activity in many states, with a central agency under the auspices of the American Bar Association. It is not directly designed to prevent willful misconduct, but it has a profound influence, notwithstanding. It enables all self-respecting lawyers scrupulously to avoid the appearance of indifference to ethics; it creates a norm of conduct along the frontier of doubtful deportment; it makes for a safe ceremonial; and in all these respects it tends to differentiate the ethical practitioners from the unethical. It throws the burden on the unethical to prove that they are not downright evil.

It is, of course, almost a hopeless thing to take a regiment of raw recruits every year and whip them into professional discipline, even through a grievance committee and a legal ethics clinic. The work thus far done has helped, as indicated by the fact that the character of offenses is becoming less grievous, but after all it is more like bailing the boat than stopping the leak. With the low requirements for admission, the bar is receiving youths devoid of culture, because it is easier for such young men to gratify their ambitions in this way than to aspire to professions which require longer preparation. The bar has not been able to compete with the engineering profession, to take a conspicuous example, in attracting men of superior qualifications and training.

The Chicago Bar Association is now devoting about $10,000 a year to prosecuting delinquents in support of its grievance committee work.

Local bar associations at times interest themselves in securing the election of judges. That judges should ever owe anything to lawyers is obviously unfortunate, but under our system of judicial selection it is inevitable, and it is far better that the obligation should be to associations working in the open than to individual lawyers. The bar as a whole always wants able and fair judges. In Wisconsin the bar, working in an informal manner, has exerted a powerful influence for a generation in opposition to party appointments and nominations, and it has been, on the whole, a worthy influence. In Colorado an elaborate system of bar primaries is employed to guide voters. The Chicago Bar Association has chiefly justified its existence in the public mind by similar effort, and in 1921 it literally saved an entire bench of twenty judges by fighting a powerful political machine which needed only the judiciary to complete its grip upon city and state government.

[1] Since its organization, Mr. Boston, Mr. Henry W. Jessup and Mr. Julius Henry Cohen have served continuously in its membership.

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THE STATE ASSOCIATIONS

The state associations are strikingly similar in structure but vary in activity and influence. Their average membership does not exceed one-fourth of the bar. Except in one or two states they meet but once a year, and usually for two days. The president of a state association exercises considerable power through making up a program and appointing committees but, as presidents never serve for more than one year, there is little continuity of influence. Attendance at meetings is pitifully small. The casual attendants exert little influence because they are almost unknown and do not themselves understand methods of work. It is usually difficult to extend membership and collect dues. There is little regulation of the profession. The state body is too remote, its meetings too infrequent, and its funds insufficient. It does not work in explicit coördination with local associations.

The majority of its members never attend meetings and so never have any genuine sense of participating in the duties or responsibilities of the association. In consequence, the organization is kept going by the small clique which has sufficient instinct for cohesion to attend meetings and do the required work. The clique control is not to be blamed under the conditions. It is the inevitable consequence of this loose and partial organization. And yet it is frequently made an excuse by acceptable lawyers for refusing to join.

THE AMERICAN BAR ASSOCIATION

It is not easy to give a true impression of the American Bar Association in limited space. The theory of exclusiveness controlled for a long time, and still exists in the minds of some of the older members, but the Association has grown and expanded to meet imminent needs until it has become the representative body of the entire profession.

Thirty-one years ago the Association called into being the Conference of Commissioners on Uniform State Laws and still stands *in loco parentis* to the Conference, which has performed a notable service. From time to time special committees were created and some of them became standing committees and then sections. There are now seven sections which greatly amplify the work of the Association and afford means for intensive effort in technical fields. Members can register in any section and participate in its work, the only limitation being that imposed by conflicts of hours on the program.

So the American Bar Association has gradually accepted heavy responsibilities and, in a measure, has created the machinery for discharging the attendant duties. The general sessions strive to entertain, while the committees and sections engage in serious work, largely in the field of legislation and substantive law.

The trouble with the institution is that it has preserved the town-meeting form of government after becoming continental in scope and membership. Grave danger attaches to this situation. Serious decisions are submitted to voting audiences which vary in numbers and personnel from hour to hour. At one time the question of Negro membership threatened disruption. Later, an attempt to align the Association against the prohibition and suffrage amendments was beaten by only a few votes, when its success would probably have cost the Association heavily. This possibility of things going suddenly awry has necessitated a very close control by the executive committee. This is the familiar story

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of pure democracy gravitating, from its very helplessness, into an oligarchy.

An attempt was made (1913–1916) by a special committee, headed by Col. John H. Wigmore, to reform the organization and create a representative control. It was proposed to unify membership in the state and national associations and restrict legislation to accredited delegates apportioned among the state memberships. The time was not ripe for such a profound change but Mr. Elihu Root, then president, created as a short forward step the Conference of Bar Association Delegates. This body is composed of five delegates from the American Bar Association, three from each state association, and two from each local. As there are about 800 of the last-named kind the Conference would be unwieldy if all should participate. Actual attendance in 1921 was by 210 delegates representing 42 state and 76 local associations.

The Conference became a section in 1919, when there was a revision of constitution; as such it receives an appropriation for its work. Its field is deemed to embrace all matters affecting the profession. This gives it substantially the field in which the organic bars of other nations function. Its range of topics has embraced unlawful practice of the law, bar organization, participation in judicial selection and professional ethics. This is a clear demarcation of field from the topics of national policy, legislation and substantive law which largely engross the attention of the parent organization.

This is not so much because the Association did not interest itself in a way in these subjects as that the Conference, being a representative body, afforded better means for making conclusions effective. It early showed the characteristics of a representative body; it tackled its problems with a view to accomplishment; it was not lured by sentimental or rhetorical considerations.

After several years of preparation the American Bar Association in 1908 adopted its Canons of Ethics.[2] There had been some previous formulation of canons by state associations but the action then taken gave great impetus and within a few years the state associations, with few exceptions, adopted the uniform draft.

THE NATURE OF THE LEGAL PROFESSION

This sketch of the state of organization at this time has appeared necessary as a basis for consideration of the fields in which organization should work. The lawyer is a creature of the state. There is no inherent right on the part of any person to act as lawyer—to advise or to plead causes for hire. But there is a social necessity for such services and the state meets the need by conferring on certain selected individuals the privilege of practising law and forbids others to compete. The practice of law is so much a public or political function that lawyers are essentially public officers, although they do not draw public pay. The profession constitutes, therefore, a body politic, in this respect differing from other professions.

Americans cannot conceive of a body politic standing independent of government, like the bar of Belgium, for instance. In most states the bar is constituted by force of statute and subject to legislative control. But in a few states the courts have held that the bar is a part of the judiciary and hence legislation affecting it is unconstitutional because of interfering with a coördinate and independent branch of government. These variant

[2] Reprinted on page 254.

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theories appear to differ but little in actual practice.

The bar has powers and, consequently, duties. Its powers are quite clearly defined; its duties less clearly. Its means for performing these duties are slowly evolving.

It is obvious that the proper functioning of the bar, with its complex, delicate and immensely important duties, cannot depend upon compulsion. As is the case with judges, lawyers must be presumed to act mainly from intelligent self-interest and high moral perception, and be amenable to public opinion. In the absence of adequate learning and staunch moral fiber no conceivable power could compel faithful and intelligent service. No legislature could force a recreant bar to serve efficiently. The courts have a little power, but not one of continuous regulation, and judicial control cannot take the place of spontaneous good intentions. Regulation, if there be any, must proceed from the profession itself; it must be instinctive and automatic.

THE MISSION OF LEGAL ETHICS

This whole matter of ethics is vastly more difficult than is implied by the punishment of acts which are *malum per se*. The public generally is most concerned with mere honesty and wants only to hold the lawyer to the standard necessary for the lay fiduciary. Unfortunately, an element in the public enjoys seeing a lawyer employ every weapon in the arsenal and is inclined to judge solely by success in winning the particular battle. But the public suffers a thousand times more from less conspicuous infractions of ethics than from plain dishonesty. The lawyer has it in his power to provoke litigation, to keep it alive indefinitely and, in a hundred ways, to bring the administration of justice into disrepute, and yet not commit any offense in the criminal code or be thought unfaithful to his profession.

Nor is the public in a position to be critical concerning ability and training. It must largely take its lawyers at their own professed estimate. A very ignorant lawyer can easily impress a jury or the audience of a courtroom by a show of erudition. And lack of technical skill may cause untold mischief, possibly after the lapse of years.

This is the situation in a measure with respect to all professions. Their practitioners deal in mysteries. They are not safely judged except by their colleagues. And that is why there must be ethical standards for professions.

This essential ignorance and helplessness on the part of the public tends strongly to cause a serious misunderstanding of the most important mission of ethical rules. There is a hasty belief that outsiders, able to work for less pay, are prevented from doing some of the lawyer's work in order to save fees for the lawyer. There is also the assumption that ethical rules exist largely to hamper the young practitioner and prevent him from competing with his elders. It is easy to refute the former assumption, for anybody can be made to understand that lay advice is not only hazardous but that it has back of it no responsibility. A lawyer's reputation is his capital which stands behind his opinions. The latter assumption is a little more involved. Indeed, it is strange that so many lawyers themselves cannot explain why advertising is tabu among lawyers. That is, they cannot formulate a philosophic reason based upon social necessity.

The reason lies in the credulity and ignorance of the public. If advertising is permitted, it is the ability to write a persuasive advertisement that

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will gauge success, rather than legal ability. If solicitation of clients is permitted, there is no end whatsoever to competition in solicitation. If ambulance chasing and hospital solicitation are permitted, the public falls a victim to the least ethical, the least conscientious, the least honest of lawyers.

With these coarser evils still menacing the profession it is too early to throw light on such self-recommendation as is gained through candidacy for office, through holding positions of honor in fraternities and public associations of all kinds. But eventually even these less dangerous and more difficult matters may be brought within ethical regulation.

The need now, and for a long time past, has been imperative to expel lawyers who connive at the fixing of witnesses, the bribing of jurors and court officers and the solicitation of personal injury suits. The situation, perhaps, is not as bad as it has been, but in many places it is still deplorable. These are the raw instances of misconduct, found largely in that portion of the bar which specializes in the defense of criminals. They could be curbed by the courts. In Detroit, when a unified criminal court was established in 1920, the shyster was tamed in a single day. Criminal defense has largely shifted to reputable practitioners in that city. But, generally, the judges are too dependent to exert any controlling influence, and in many inferior city courts they are themselves recruited from a doubtful element.

A Step in State Examining Boards

Good service depends on knowledge as well as character. A lack of either essential threatens a loss of rights or the miscarriage of justice. Legal knowledge can be quite accurately tested by examinations and no person should be admitted to practice until he has given proof of a degree of mastery of the law. But until the last twenty or thirty years there was an almost universal disposition to admit any person, not notoriously unfit, who had read a few law books. Traditionally, admission was by order of court after a committee of the bar had given a perfunctory examination. In most states this laxity on the part of courts led to reform through legislation which created examining boards.

The older indifference to the subject gradually came into conflict with the growing sense that the profession was losing ground in critical estimates. Yet it could point to its aggrandizements of power in extra-professional activities, such as legislating, holding public office, and manipulating political machinery. Probably this extra-professional power itself occasioned some alarm and fostered the criticism which induced the bar to take note of its direction of drift.

The creation of state examining boards marked a great step forward, for it centralized responsibility in officers who were impersonal and relatively independent. The state supreme court was relieved of a duty which it could not easily perform. The bar, without realizing the fact, had gained possession of the gateway to the profession.

Standards for Legal Education

Beginning fifty years and more ago, law schools arose in this country in response to the popular concern for legal education in a polity which gave the lawyer such a heavy rôle. The schools have increased and developed along two main lines. The endowed schools and those supported by state funds have been free to impose higher standards of scholarship. The stand-

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ard among them today is three years of technical study following two of general college study, though not all have yet reached this level. As their requirements for admission and graduation were increased, the proprietary schools had left to them a larger field and one sufficiently lucrative to call into being a number of such institutions. Competition between them induces considerable advertising, which tends to promote legal study.

While about 40 per cent of the law schools provide excellent courses, and it is possible for the exceptional student to get a fair education in an inferior school, the result generally has not been what is needed. A degree is nowhere a requisite to admission to practice and in many states the examinations are still too easy. The well-schooled college graduates are in a minority among those coming to the bar. In some states a high school education is not required and in no state is a single year in college necessary. We have now, as always, a great many lawyers who are ethically and professionally capable, but who have no general learning. Their ignorance of political science is a national misfortune. For a scientific view of human affairs they substitute and cling to outworn legal dogmas. For many of them history began with the discovery of America. The dogmatic, rather than the scientific view of law, dominates the profession and the bench.

For nearly thirty years the American Bar Association struggled with the problems involved in educational requirements. Gradually the tie between good education and good morals became obvious. In 1921 the Association made its pronouncement. A committee, headed by Mr. Elihu Root, reported a resolution in favor of two years of study in a college and three years in a law school as the minimum standard for admission to practice. After notable debates, the standard was adopted in the Section on Legal Education and then by the Association by large majorities.

The resolution provided also for the calling of a national conference to consider means for establishing the standard by force of law or supreme court rule in the various states. The Conference of Bar Association Delegates afforded the needed machinery and a meeting was called for February, 1922, in the city of Washington. A great deal of hostility must be overcome before there can be any general acceptance of the standard. Opposition comes from lawyers who look upon educational standards as a reflection on their own shortcomings, and from the proprietary schools. The latter, however, conceded most of the fight at the start, making a stand only for an "equivalent" to two years of college study. Victory will come first in states which have no proprietary schools but good public universities.

REGULATION OF CONDUCT BY THE BAR ITSELF

There remains, finally, the matter of continuing regulation of conduct by the bar itself. No other agency can avail. Nor can an unorganized or partially organized bar accomplish this. A good start has been made by the voluntary, exclusive, minority associations. But very generally throughout the country disciplinary work is weak and uncertain. In small centers the ethically sensitive are too close to offenders to be able to grip the situation. It is safer to pass by on the other side. In the large cities the occasional penalties imposed are too rare to be strongly deterrent, and they lack the needed direction toward the delicate relations of attorney to client and advocate to judge.

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There would be little reason for optimism on this score were it not for a movement for inclusive bar organization fathered by the Conference of Bar Association Delegates. In 1920 a committee, headed by Judge Clarence N. Goodwin, reported a plan for organizing the bar of a state on an inclusive and democratic basis. It starts with the proposition that the bar constitutes a body politic and that it is necessary only to provide for it a simple scheme of government by statute or by rule of the state supreme court. It is proposed that every practising lawyer in the state be required to contribute annually to the expense of the association and in return for that be given an equal and practical share in its management. This control is effectuated by requiring the lawyers in each district, or circuit, to elect, by mail ballots, their representative on the board of governors. This board is to exercise disciplinary powers and such other powers as may be pertinent. It can create grievance committees for cities, or counties or districts and provide means for their work.

It would be the duty of such a committee to investigate all complaints, either from laymen or lawyers, and to take such action as may be needed. The protection of the innocent is quite as important as the punishment of the delinquent. This can be done more effectually by a committee than by any court, which must necessarily act publicly. Its hearings would be quasi-judicial and it would determine the facts and make a record. The committee would also have the power to compel the attendance of witnesses and the production of evidence. The accused, if found guilty of improper conduct, could accept the penalty imposed, resign, or demand review by the supreme court.

This would afford the ideal machinery, impersonal in character, sustained by a representative state body, able to protect innocent persons through privacy and to discipline offenders by publicity. The courts would accept assistance of this kind. Such a system means democratic self-government and self-discipline on the part of the bar. Every lawyer is given equal representation with no requirement save that he pay the annual dues, in default of which he must cease practising. There can be under such a plan no large element escaping responsibility by refusing to do its share, and no element contributing without a genuine voice in affairs. The governors would inevitably be representative of the best elements in the profession; not so impossibly lofty as the reformers, but assuredly jealous for the reputation of the profession thus placed in their keeping.

At the 1921 meeting of the Conference of Delegates, Chairman Goodwin was able to report that a large number of state associations were interested in the proposal and that in several states bills had been introduced in legislature. In North Dakota the first legislative result was secured. The presumption is that the voluntary associations will merge in the inclusive bar and that their social activities and interest in general legal topics will continue as formerly. This is not especially important because the existing associations might retain their present work and selective memberships, leaving to the organic bodies the functions which they are not adapted to exercise.

POSSIBILITIES FOR LAW TEACHERS

An account of the American bar would be incomplete without reference to the growing importance of the professional law school teachers. The practising lawyer who teaches occa-

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sionally fills a useful part and will not soon be displaced, but there was little improvement in legal education until it was taken over by lawyers who had no conflicting interests. The past generation has seen the development in this country of the best law schools in the world, side by side with some of the least worthy, in this respect paralleling the profession, which also reaches the two extremes. Probably our best lawyers are the ablest lawyers the world has ever seen, and there can be little doubt that our worst lawyers are far below the lowest in other civilized countries. Nowhere else is there a class of lawyers comparable with the shysters of the criminal courts of this country.

To return to the professional teachers; they are doing vastly more than creating a method of pedagogy. Their detachment from clients peculiarly fits them to deal abstractly with law. Their. critique of decisions is wholesome and helps to systematize the ideas of practitioners and judges. They would do well to hold themselves less aloof from legislation, which is the most conspicuous phenomenon of modern times.

There is reason for thinking that this teaching class, constituting now, with the practitioners and judges, a third estate in the profession, is to perform a work far beyond present conceptions. We are drifting toward a situation which calls for some heroic work in respect to law. To some it appears as a "restatement" of the law; to some, as a partial codification; to others, scientific legislation. Heretofore there has been no agency for such great service. It is becoming evident that the law teachers will be best fitted to function in this field. And to this end there is needed imperatively a study of jurisprudence in order that a lasting foundation may be laid for the most difficult and far-reaching work that lawyers have ever undertaken.

PRESENT THEORIES AND SPECULATIONS

It is apparent that this article could not have been written even a year or two ago. There are at present other theories and speculations which deserve consideration. The lawyer working under annual salary, whether for a municipal corporation, a bank, trust company, insurance company or large firm of lawyers, presents a problem as yet hardly realized. Such a lawyer cannot be as closely attached to the court in which he practises as to his employer. This is not an ideal situation. Since responsibility for ethical conduct must rest upon the lawyer's personal reputation he should be a free agent, subject only to professional guidance and surveillance, and free from moral overstrain. Nor should lay agencies participate, directly or indirectly, in the practice of law, either by advising clients or by prosecuting their suits, because they cannot, like the individual lawyer, offer the sanctity of a personal reputation which compares with the ready assets which our banking laws require. A corporation cannot be disbarred.

The cost of a thorough legal education is worrying some persons who hold that it will bar applicants of small means and make for a plutocratic bar. They propose to divide the profession into two classes: on one side, thoroughly educated lawyers with general powers and functions, and on the other, partly educated lawyers with limited powers. The suggestion that the less educated might suffice to counsel the poor is so dangerous that it must be condemned outright. The poor, the ignorant, the unsophisticated most need all the protection that can be thrown about them. Low grade legal

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services are emphatically not the cheapest.

Worry about improving legal education derives partly from the belief that the inferior law schools are too strongly intrenched to be ousted or reformed. This remains to be seen. As for a division of the bar, it is submitted that the only division conceivable is one between counselors and advocates. But this cannot grow out of two kinds of law schools. It is possible that in time advocacy will emerge as a recognized specialization in a bar of greater solidarity than now exists, just as the College of Surgeons emerged from the American Medical Society. But in such case the advocate would have to rely on superior ability to try cases. There is no prospect that the general practitioner will ever be deprived of his traditional power to conduct litigation.

There is another way in which these difficulties might be resolved. It lies in encouraging the study of law, not with a view to serve clients, but to fill the places now taken by "house lawyers" in private employment. A new designation would have to be found for this class. They would not be entitled to perform any of the essential functions of the lawyer. They would be ineligible to judicial office. Their education would not be a matter of great public concern. This would preserve a field for inferior law schools, subject to competition from the universities which have added special law courses for students in commerce, transportation and executive training. It is a good thing to have a knowledge of law widespread in the community, providing the rights of clients are not jeopardized. This "outer bar" would be as favorably situated to hold public offices as is the lawyer himself and thus the imagined danger of an aristocracy of brains and knowledge monopolizing statecraft and legislation would be laid.

But whatever the outcome we must aim to establish such standards of education and ethics that the word lawyer will always and everywhere signify genuine competence and absolute fidelity. This is no mere counsel of perfection. It is entirely practical. And as we progress we will be looking toward a golden age when the legal profession will be useful and respected to a degree now barely foreshadowed.

Unlawful Practice of the Law Must Be Prevented

By JULIUS HENRY COHEN

Counsellor-at-Law, New York City, Author of *Law and Order in Industry*, and *The Law: Business or Profession;* Chairman, Committee on Unlawful Practice of the Law and Member, Committee on Professional Ethics, New York County Lawyers' Association.*

CHESTER S. LORD, Chancellor of the Board of Regents of the University of the State of New York, said in an address to the Chamber of Commerce of the State of New York on February second last: "Quack doctors and quack dentists have been driven from the state. The regents are called on constantly to prosecute illegal practitioners and to revoke licenses for law violation."

He reminded us that "not so very long ago no educational test was re-

* Mr. Cohen is also author of *Commercial Arbitration and the Law* (Appleton-19); and of *An American Labor Policy* (Macmillan-19). He contributed to the *Annals* in September, 1917, ("Administration of Business and Discipline by the Courts") and in July, 1920 ("Collective Bargaining and the Law as a Basis for Industrial Reorganization"). The Editor.

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quired of a dentist. Young men entered offices and learned the business by experience. Some of them became very good dentists toward the end of their lives but meantime their patients were the victims of their search for experience." An abscess in a tooth resulting from a poor filling is a pretty dangerous thing and something against which we all agree the unsuspecting patient should be protected. No one questions the wisdom of regulating the practice of medicine or the practice of pharmacy, and we have come to recognize that so important to health is proper plumbing that we permit only licensed plumbers to practise. The care of horses and cows and other cattle we regard of sufficient consequence to permit only licensed veterinarians to practise. Now it came to pass in the very early history of civilization that contact with the law required knowledge and advice, and as the ignorant are easily misled by quacks and charlatans, the state undertook to make sure that those who applied such knowledge and gave such advice should be qualified.

THE SOCIAL NEED FOR A BAR

It was easy to adopt this principle in the case of the lawyer. Historically, he owes his position to the fact that he is an "officer of the court," and, under the court, subject always to discipline for improper conduct.[1] Where there is no licensed bar, there is trickery and chicanery. In China there is no licensed bar, but there are lawyers. They are called "rascals of the lawsuit" (chung-guen).[2] They undertake to furnish legal advice and assistance to the litigant, and, incidentally, to capture the friendly ear of the court in behalf of the litigant. If caught, they are sent to jail. But the need for a bar produces one, even unlicensed. For many years in our large cities the poor, especially those who came from foreign countries, where the notary public was himself a trained official competent to draw legal instruments, were the prey of notaries who drew for them not only leases and bills of sale, but wills and other documents, and undertook to give legal advice. Few of these practices now exist in New York or Kings County. With the aid of the State Industrial Board, the Committee on Unlawful Practice of the Law of the New York County Lawyers' Association and the Brooklyn Bar Association have driven them out. As Judge Crane pointed out in *People* v. *Alfani*, 227 N. Y. 334:

> Is it only in court or in legal proceedings that danger lies from such evils? On the contrary, the danger there is at a minimum, for very little can go wrong in a court where the proceedings are public and the presiding officer is generally a man of judgment and experience. Any judge of much active work on the bench has had frequent occasion to guide the young practitioner or protect the client from the haste or folly of an older one. Not so in the office. Here the client is with his attorney alone, without the impartial supervision of a judge. Ignorance and stupidity may here create damage which the courts of the land cannot thereafter undo. Did the legislature mean to leave this field to any person out of which to make a living? Reason says no. Practising law as an attorney likewise covers the drawing of legal instruments as a business.

The Committee on Unlawful Practice of the Law of the New York County Lawyers' Association owes its existence to a study of this problem made by a special committee in the year 1914. This committee reported the conditions as they were found in New York City and stressed the need for a continuous investigatory and prosecuting agency. The work of the Committee, however, is not limited to the prosecution of notaries public and

[1] *The Law: Business or Profession?* Chapters IV, V, VI.

[2] *Idem. p.* 46.

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individuals who pretend to be qualified, yet are not licensed to practise law, but has extended to the field of corporate endeavor. Not much argument is necessary to convince the layman that wherever special and expert skill is required, the state should protect him, as it does in the case of the dentist and the druggist and the doctor. But it is the common view that it does not require much skill to draw a lease or a contract or a will. Writers like Graham Wallas, for example, wonder why one should be obliged to pay a fee to a lawyer for drawing an instrument when forms could be easily prepared by the state that laymen could fill in.

CARELESS LEGAL WORK A CAUSE OF LITIGATION

Of course, every lawyer knows how dangerous a doctrine this is, and yet how profitable to the bar acceptance of it becomes, for it is just the careless drawing of legal documents that makes for litigation. The New York State Bar Association in the year 1914 made a study of the causes of preventable litigation and discovered that the largest percentage of litigation came through improperly drawn contracts and wills. Too often even capable business men treat the drawing of a lease as though it were a purely formal matter, taking the advice of a real estate broker or a justice of the peace. We are all so slipshod generally in this country that any effort to use language carefully and with definite meaning is looked upon with disdain. In his interesting book, *The Behavior of Crowds*, Everett Dean Martin traces the popular contempt for knowledge to the "personal inferiority complex" and the desire of the crowd to put everyone on a level. Whether this is true or not, it is the fact that only the person who is himself trained in some art appreciates the value of training in others. It is the experienced business man who realizes the value of the lawyer's care and advice, not the ignorant one.

I once heard Chancellor Day of the Syracuse University at a public dinner arouse an audience of business men to enthusiasm with the suggestion that if only we sent business men to Congress instead of lawyers, we should be much better off. He was followed by Martin Littleton, who at once suggested that this would be entirely satisfactory to the lawyers, for, if the business men would make the laws and leave to the lawyers the litigation that would follow, it would be a splendid division of labor. And it is true of legal documents, as well as of legislation that the slipshod, careless and indifferent use of language only leads to the employment of lawyers.

CORPORATIONS AND TRUST COMPANIES IN LEGAL CAPACITY

In the case of the notaries, the poor and the weak are preyed upon. But what of the corporations that draw deeds and wills and other documents? Are they not expert, perhaps more expert than the lawyer? Doctor Frank Crane, writing in the *Globe* the other day, said: "Even able lawyers have been known to make wills that would not stand. For this reason trust companies are coming more and more in favor among testators who desire to make sure that their property will be disposed of according to their wishes."

But the trust companies of New York City have come to realize that this is wrong doctrine. They subsist upon the confidence of the public in the fiduciary relationship. The trust company is something that somebody trusts. The trustee is one who holds property in trust for another. Now, it is precisely that fiduciary principle which the lawyer must apply almost

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every moment of his work. He is not only the trustee of property. He is the trustee of vital things. He knows the secrets of the client. He knows intimately the family relations. He must be trusted to keep them confidential. The dentist may leave you with an abscess in your tooth that may, it is true, ultimately lead to your destruction, but, after all, that is only a physical worry. The lawyer who betrays his trust may leave you with an abscess that eats into the very heart of your family life after you are dead and gone. Never before in the history of the bar has so much dependence been placed upon the confidence which is reposed in lawyers. Not an enterprise of any consequence, not a relationship of any pecuniary importance is formulated without the participation in some way of the lawyer, and to draw the documents requires a knowledge of the human factors involved. We are very far away in actual life from Quirk, Gammon and Snap and their scheme with Tiddlebat Titmouse, though if the layman needs instruction on this matter of what happens when the lawyer fails to apply the high standards of his profession and sets out to betray the trust reposed in him, he need but read Warren's *Ten Thousand a Year*.

THE FIDUCIARY PRINCIPLE

It is the *fiduciary principle*, then, which is the breath of life of the profession. It is also the breath of life of the trust company. The New York City trust companies have learned, therefore, that the fiduciary principle is not preserved when the trust company draws the will for the proposed client. It may, indeed, act as trustee of his property. It may, indeed, counsel him on business matters. But when it comes to drawing his will, or, for that matter, the deed of trust by which the trust company is to be his trustee, the trust company lawyer cannot act both for the trust company and the maker of the will without violating the fiduciary principle. *No man can serve two masters.* It is precisely at this point that the differentiation between *business* and *profession* occurs. The drawing of a will is a human thing. It is not a mere matter of phraseology and typewriting. It involves intimate knowledge of family relations, an inner grasp of the secrets of him who is about to prepare a record of his last wishes. What he does by this document may mar or make those dependent upon him and may mar or make his own record. Nothing short of the completest confidence and disclosure will do: therefore, the direct personal relationship between attorney and client; therefore, the necessity for preventing or precluding a conflict of duties.

In the analysis of the philosophy underlying these relations, it is a very significant thing that the Committee on Professional Ethics and the Committee on Unlawful Practice of the New York County Lawyers' Association are acting on the same fundamental principles. In Question and Answer No. 201 the Committee on Professional Ethics said:

In the opinion of the Committee is there any professional impropriety on the part of a lawyer entering into the formation of a partnership with a certified public accountant for the practice of public accounting and tax report service?

A majority of the Committee is of the opinion that the implication of the arrangement and of the question is that the partnership furnishes the legal services of the lawyer to its customers; they consider that such exploitation of professional services for the profit of or by those who are not entitled to practice law (in whatever guise cloaked) is not professionally proper, because it admits to the emoluments of the office those who are not entitled to its privileges or bound by its discipline or amenable to summary correction, and affords an opportunity to the layman to give legal advice.

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The collection agency thrives on the solicitation and advertising for business. The lawyer may not solicit or advertise. What this means is fully disclosed in the discussions in the two cases of *Matter of Schwarz*, 175 App. Div. 335, and *Matter of Schwarz*, 195 App. Div. 194. When the lawyer really begins to advertise as business men advertise to get business, he lowers himself and his profession. He impairs the fiduciary principle. If he is not to advertise or solicit directly, what shall we say then of the lay agency which does the advertising and makes the profit, utilizing the lawyer as a mere employe, selling his service without any direct responsibility between him and the client.

DUTY OF THE BAR TO SAFEGUARD THE COMMUNITY

It is for these reasons that the bar carries the responsibility of preventing the so-called practice of the law by corporations and laymen. It is no answer to say that not all lawyers are properly equipped, or that not all lawyers are men who observe the fiduciary principle. It is the duty of the bar to see that lawyers are properly equipped and that all do observe the fiduciary principle. This duty, let it be frankly admitted, has not been fully performed by the bar. To meet this duty fully it is now organizing. It must take steps to see that a bar adequately trained, of moral character, performs the service to the community; but it must also perform the duty of safeguarding the community from those who have not even the present limited training required for admission to the bar, and it must also protect the community from itself treating the lawyer's services as a "jobber treats merchandise." When that happens, the lawyer as a professional man goes. But with him goes the *fiduciary principle*, so vital and so essential for the protection of the community in the relation between lawyer and client. The doctrine of *caveat emptor* will not give to the community the protection it must have in such a relationship. Only the highest and best standards will do. No others will suffice. The layman is not able to protect himself. The community must do it for him.

A Selected Bibliography on Legal Ethics

Ethics of the Legal Profession, by Orrin N. Carter, Judge of the Supreme Court of Illinois. Pp. 116. Chicago: Northwestern University Press, 1915.

A most illuminating compendium of the subject, with an introduction by Professor John E. Wigmore. Contains profuse citations and an extensive bibliography; also, the Canons of Ethics of the American Bar Association.

Cases and Other Authorities on Legal Ethics, by George P. Costigan, Jr., Professor of Law in Northwestern University. Pp. 616. St. Paul: West Publishing Company, 1917.

This is one of the West Publishing Company's Case Book Series, published under the editorship of Professor Wm. R. Vance of the Yale Law School. Beside leading cases on the conduct of lawyers adjudicated in the courts, there is included the Canons of Ethics of the American Bar Association and also those of the Boston Bar Association; also, the classic Fifty Resolutions of David Hoffman and many of the answers to questions on legal ethics propounded to the Committee on Professional Ethics of the New York County Lawyers' Association. Quotations from the published opinions of many lawyers on various questions of legal ethics are also given.

Ethics in Service, by William H. Taft, Chief Justice of the United States. Pp. 101. New Haven: Yale University Press, 1915.

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This is a series of lectures given at Yale University under the provision of the Page Foundation. In the first two lectures, "History of the Profession of Law" and "Legal Ethics," the practising lawyer will find many pertinent suggestions.

A Course of Legal Study, by David Hoffman, 2 Vol. 2d ed., Baltimore, 1836.

In this book were first published the memorable "Resolutions" formulated by Hoffman for the assistance of the young practitioner. They have become a classic in the literature of the law and an authority in the study of legal ethics. They are given in the Appendix of Costigan's book cited above.

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Blackstone's *Commentaries on the Laws of England*. Chicago: Bancroft edition, 1915–16.

Law: Its Origin, Growth and Function, by James C. Carter. New York: Putnam, 1907.

Laws and Jurisprudence of England and America, by John F. Dillon. Boston: Little, 1895.

American Lawyer, by John R. Dos Passos. New York: Banks, 1907.

Nature and Sources of the Law, by J. C. Gray. New York: Lemcke, 1909.

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Collected Legal Papers, Oliver Wendell Holmes, "The Common Law." New York: Harcourt, 1920.

Law of Attorneys, Solicitors and Agents, by Robert Maughm. London, 1839.

Field of Ethics, by G. H. Palmer. Boston: Houghton Mifflin, 1901.

Orations and Essays, by E. J. Phelps. New York: Harper, 1901, *p.* 106.

History of English Law, by F. Pollock and F. Maitland, 2d. ed. 2 Vol. Boston: Little, 1895. Vol. I, *p.* 194.

Treatise on Equity Jurisprudence, by J. N. Pomeroy, 3d. ed. Chicago: Bancroft, 1905. Sec. 960.

Treatise on American Advocacy, by A. H. Robbins, 2d. ed. Central Law Journal, 1913.

Essay on Professional Ethics, by George Sharswood, 5th ed. Philadelphia: T. and J. W. Johnson, 1907.

Treatise on Attorneys at Law, by Edward Mark Thornton, 2 Vol. New York: Thompson, 1914.

Essays in Legal Ethics, by George W. Warvelle, 2d. ed. Chicago: Calahan, 1920.

Treatise on Attorneys and Counselors-at-Law, by E. P. Weeks, 2d. ed. Chicago: Bancroft, 1892. Sec. 14.

Memoirs of the Life, Character and Writings of Sir Mathew Hale, by J. B. Williams. London, 1835. *P.* 197.

Lawyer's Official Oath and Office, by J. H. Benton. Boston: Boston Book Company, 1909.

Hints on Advocacy, by Richard Harris, 14th ed. Boston: Little, 1911.

A Book About Lawyers, by John Cordy Jeaffreson. London: Hurst and Blackett, 1867.

A Philadelphia Lawyer in the London Courts, by Thomas Leaming. New York: Holt, 1911.

Barrister-at-Law: An Essay on the Legal Position of Counsel in England, by James R. V. Marchant. London: William Clowes and Sons, Ltd., 1905.

Day in Court, by Francis L. Wellman. New York: Macmillan, 1910.

Conduct of Lawsuits Out of and In Court, by John C. Reed, 2d. ed. Boston: Little, 1912.

Facts as Subjects of Inquiry by Jury, by James Ram, 4th ed. New York: Baker, 1890.

Gibbon's *Rome, Decline and Fall*. Vol. 2, chap. 17.

In addition to this list of larger works dealing with the subject of "Legal Ethics" is appended the following list of articles and addresses on the subject printed in legal and other publications.

ARTICLES AND ADDRESSES DEALING WITH THE SUBJECT OF LEGAL ETHICS

"A Code of Legal Ethics," by Charles A. Boston, published in *The Green Bag*, May, 1908.

"Legal Ethics," an address delivered by Charles A. Boston before the Commercial Law League of America, *Bulletin* of the League, September, 1913, and reprinted, *American Legal News*, Vol. 24, No. 8, August, 1913, *p.* 15.

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"The Lawyer's Conscience and Public Service," by Charles A. Boston, *Atlantic Monthly*, September, 1914.

Publication by Albany Law School of addresses made since the endowment in 1902 of a Chair of Legal Ethics. Published semi-annually.

Reports of the Committee on Ethics of the American Bar Association during the years 1905 to 1908, published in the annual reports of the Association.

"The Moral, Social and Professional Duties of Attorneys," an address delivered by Samuel Warren before the Incorporated Law Society of England. English editions 1848 and 1852, four lectures. American edition, Albany, 1870.

"Proposed Ethical Code," published in *Bench and Bar*, Vol. 14, No. 3, September, 1908: *p.* 89.

"The Code of Ethics and its Enforcement," by Alexander H. Robbins, the *Central Law Journal*, Vol. 75, No. 23: *p.* 419.

"Correcting Abuses in the Bankruptcy Practices," by J. Howard Reber, the *Bulletin* of the Commercial Law League of America, Vol. 17, February, 1912: *p.* 2.

"The French Bar" by Paul Fuller, *Yale Law Journal*, Vol. 16, No. 7, May, 1907: *p.* 447.

"The Legal Ethics Clinic of the New York County Lawyers' Association," published in the *Illinois Law Review*, Vol. 7, No. 9, April, 1913: *p.* 554.

"An Interesting Ethical Tribunal," published in *Bench and Bar*, new series, Vol. 9, No. 8, 1914: *p.* 333.

"The Illegal Practice of the Law versus the Unprofessional Practice of the Law," and "Coöperation versus Solicitation in Bankruptcy," by Julius Henry Cohen, *American Law News*, Vol. 23, No. 11, November, 1912: *p.* 3; and Vol. 23, No. 12, December, 1912: *p.* 11.

"Some Problems of Legal Ethics," by Thomas Patterson, *Case and Comment*, Vol. 24, No. 8, January, 1918: *p.* 603.

"Unlawful Practice of the Law," and "Ethics," published in *Bulletin* of the Commercial Law League of America, Vol. 27, No. 1, January, 1912: *p.* 28; *p.* 32.

"The French Code of Ethics," the *Green Bag*, Vol. 23, No. 1, January, 1911: *p.* 16.

"The Growing Disrespect for Lawyers," by Julius Henry Cohen, *Bulletin* of the Commercial Law League of America, Vol. 17, February, 1912: *p.* 3.

"New York State Association of Trust Companies and Banks in Their Fiduciary Capacity," the report of the Committee on Relations of Trust Departments of Trust Companies and Banks with the Legal Profession, February 25, 1921.

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The Professional Organizations, Training and Ethical Codes of Physicians, Dentists, Nurses and Pharmacists

By A. D. Whiting, M.D.
Philadelphia, Pennsylvania

THE medical profession may be justly so termed because its "prime object is the service it can render to humanity." Its members have attainments in special knowledge and have as a vocation the application of this knowledge for the benefit of others. Reward or financial gain is, as a general rule, a subordinate consideration. Thousands of physicians give largely and nobly of their time and skill to the poor. The most enlightened physicians of today are advancing preventive medicine, which tends to do away with a great deal of medical practice. Those who regularly render a large part of their services to their fellowmen gratuitously and are constantly striving to eradicate their own means of livelihood by preventive medicine are nearing the pinnacle of idealism in their professed object—the service they can render humanity.

The Organizations of Physicians

A most noted characteristic of modern medicine is a coöperation which is rapidly becoming international in extent. Group organization in the profession is widespread, from the small hospital staff conferences through the numerous and various societies of specialists, county societies, and state societies to the national organizations.

The hospital staff conferences are of great value to the staff and consequently to the patients. The various hospital staffs govern their own meetings. Usually, records of many interesting or puzzling cases are reviewed and thoroughly discussed; treatment, whether operative or non-operative, is analyzed; results are noted. These conferences acquaint the staff with the various activities of the hospital, many of which lie beyond their individual line of medical work, tend to create a close coöperation among the staff members, and often between the staff and the hospital administration, and always stimulate individual endeavor. These staff meetings are required by the rules of hospital standardization promulgated by the American Medical Association and the American College of Surgeons.

The County Society

The county medical societies form the local divisions of the state medical societies; the latter, combined, form the American Medical Association, the national body.

The Philadelphia County Society, as an example, was instituted in 1849 and incorporated under the laws of the state of Pennsylvania, in 1877. Membership is limited to graduates "of an institution legally authorized to confer the degree of doctor of medicine" who must be legally qualified to practise medicine in the state of Pennsylvania and must be citizens of the United States. The names of applicants for membership are read at a stated meeting of the Society, published twice, and then voted upon by a Board of Censors. A member of any other county society affiliated with the American Medical

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Association may be transferred to the Philadelphia County Society. The county society is the only portal of entrance to the state and national societies.

The rules of membership provide that "any physician who shall procure a patent for a remedy or for an instrument of surgery, or who sells or is interested in the sale of patented remedies or nostrums, or shall give a certificate in favor of a patented or proprietary remedy or patented instrument, or who shall enter into agreement to receive pecuniary compensation or patronage for sending prescriptions to any apothecary, shall be disqualified from becoming a member; or if already a member, upon conviction of such offense shall be *ipso facto* deprived of membership."

The general business of the Society is in charge of a Board of Directors. From its membership the following committees are appointed: (a) a Committee of Scientific Program, which has charge of the scientific programs; (b) a Finance Committee, which has supervision of the funds of the Society; (c) a Committee on Medical Defense, which looks after the defense of members in suits for alleged malpractice; (d) a Committee on Publication, which has charge of the publications of the Society; (e) a Committee on Branch Societies, which looks after and reports on the several branch societies.

"Stated meetings of the Society," it is ordered, "shall be (a) business meetings, which shall be held on the third Wednesdays of January, April, June and October, respectively, at 8.30 o'clock p.m.; (b) scientific meetings which shall be held on the second and fourth Wednesdays of each month from September to June, both inclusive, at 8.30 o'clock, p.m."

Branches of the Society may be formed for the transaction of scientific business. The annual dues of the Society are $8.

The code of ethics is that of the American Medical Association,[1] violation of which subjects the offending member, upon conviction, to censure, suspension, or expulsion from the Society.

The members of the Society may be disciplined by reprimand suspension or expulsion "for the infraction of any by-law, or for acts or conduct which may be deemed disorderly or injurious to the interests of, or hostile to the objects of the Society, or for acts or conduct which may tend to lower the standard of the medical profession or of the practice of medicine, by a vote of two thirds of the members present at a business or special meeting of the Society."

All moneys of the Society are expended by previous appropriation or by special authorization of the Board of Directors.

The Philadelphia County Medical Society issues *The Weekly Roster* as its official publication.

Every state in the Union has similar county societies all subject to the Principles of Medical Ethics of the American Medical Association, each being a component part of its state society, all having similar objects and aims, the advancement of the practice of medicine and the science of medicine. Application for membership in any of the societies is volitional on the part of the medical profession; non-membership does not carry with it any penalty imposed by the profession other than the stigmata of non-membership.

THE STATE MEDICAL SOCIETY

The Medical Society of the State of Pennsylvania, which was organized in 1848 and incorporated under the laws of the state in 1890, may be used as an

[1] For this code *see* page 260.

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example of the organizations found in every state in the country, Alaska, District of Columbia, Hawaii, Isthmian Canal Zone, Philippine Islands and Porto Rico.

The purposes of this Society, as stated in the constitution, "shall be to federate and bring into one compact organization the entire medical profession of the state of Pennsylvania; to unite with similar societies of other states to form the American Medical Association; to extend medical knowledge and advance medical science; to elevate the standard of medical education and to secure the enactment and enforcement of just medical laws; to promote friendly intercourse among physicians; to guard and foster the material interests of its members and to protect them against imposition; and to enlighten and direct public opinion in regard to the great problems of state medicine, so that the profession shall become more useful to the public in the prevention and management of disease and in prolonging and adding to the comfort of life."

Membership in the state society is limited to citizens of the United States who are members in good standing in their county medical societies and physicians who may occupy a teaching position with any college or university in the state.

The legislative power of the Society is vested in the House of Delegates, composed of one delegate from each county society for each hundred members of that society, the presidents of the county societies, the president of the State Society and the trustees. Annual meetings of the Society are held in October of each year at such place as may be determined upon by the House of Delegates.

The funds of the Society are raised by an annual assessment on each member of the several component county societies, and paid by the county society out of the dues of its members. Out of the funds, each year, a sum not exceeding $1 for each member is set aside as a special Medical Defense Fund to be used for the legitimate expenses of members threatened with or prosecuted for alleged malpractice. Also, a sum not to exceed $1 is set aside each year as a Medical Benevolence Fund to be used only for the relief of pecuniary distress of sick or aged members or the parents, widows, widowers or children of deceased members.

It is the duty of the House of Delegates to foster the scientific work and spirit of the Society, to use its influence to secure and enforce all proper medical and public health legislation, to diffuse popular information in relation thereto, and to encourage graduate and research work.

The state is divided into nineteen censorial districts, each having a separate board of censors composed of members of the component county societies, whose duty it is to consider appeals from decisions of county societies by members who have been censured, suspended or expelled. The state is also divided into ten councilor districts, with one councilor for each district. Each councilor is the organizer and peacemaker for his district, visiting the counties in his territory at least once yearly for the purpose of organizing, of studying the condition of the profession, and of improving and increasing the zeal of the county society and the members. The Board of Councilors is the judicial council of the Society. It considers all questions involving the rights and standing of members, all questions of an ethical nature, and decides all questions of discipline affecting conduct of members of component county societies on which an appeal is taken from a board of

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censors, with no appeal from its findings. The Board is authorized to employ a member of the bar as legal counsel for the Society.

ACTIVITIES OF STATE MEDICAL SOCIETIES

A great deal of the work of the Society is done by its committees. A Committee on Scientific Work determines the character and scope of the scientific proceedings for each session. The Committee on Public Health Legislation represents the Society in securing and enforcing legislation in the interest of public health and scientific medicine. The Committee on Society Comity and Policy keeps informed concerning matters between the Society and the American Medical Association, between this Society and the county medical societies and between the county societies and their members. The Committee on Health and Public Instruction attempts to bring together the lay people and the profession, increasing the confidence in scientifically trained physicians and uniting the public and the medical profession in a campaign for better health condition. The Committee on Benevolence has absolute and confidential jurisdiction over the distribution of such part of the Medical Benevolence Fund as may be placed in its hands. The Press Committee has general censorship over all matters for the public press in connection with the transactions of the general meetings, the scientific sections and the House of Delegates.

The following special committees of the Pennsylvania State Society carry out the purpose for which they were created, as indicated in their titles:—The Committee on Defense of Medical Research, on Promotion of Efficient Laws on Insanity, on Archives, on Physical Education, on Revision of the Constitution and By-Laws, to Investigate Community Needs for Hospitals, Commission on Conservation of Vision and the Commission on Cancer.

A Board of Trustees has full charge of properties and the financial affairs of the Society. It provides for and superintends the publication of the official organ of the Society, the *Pennsylvania Medical Journal*, published monthly, and of all proceedings, transactions and memoirs of the Society.

An executive secretary organizes the medical profession for efficient action on proposed or pending legislation of interest to the public and the medical profession. He also organizes the machinery for the investigation of illegal practitioners of the healing art in the state.

The Principles of Medical Ethics of the American Medical Association [2] govern the conduct of members in their relation to each other and to the public.

THE AMERICAN MEDICAL ASSOCIATION

The American Medical Association was organized in 1847, and reorganized in 1901. Headquarters are in Chicago, Illinois.

"The object of this Association," states its constitution, "shall be to federate into one compact organization the medical profession of the United States, for the purpose of fostering the growth and diffusion of medical knowledge, of promoting friendly intercourse among American physicians, of safeguarding the material interests of the medical profession, of elevating the standard of medical education, of securing the enactment and enforcement of medical laws, of enlightening and directing public opinion in regard to the broad problems of state medicine, and of representing to the world the practical accomplishments of scientific medicine, with power to acquire and

[2] *See* page 260.

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hold property, publish journals, etc."

Membership is limited to such members of the state societies together with their affiliated local societies, as apply for admission. The application for membership must be accompanied by a certificate of good standing in a county society, signed by the president and secretary of that organization.

The control of the Association rests with a House of Delegates, which consists of one delegate for every 500 members of each permanently organized state or territorial medical society; one delegate from each section of the Association, and one delegate each from the Medical Department of the United States Navy, United States Army, and the United States Marine Hospital Service.

Officers of the Association are elected by the House of Delegates to serve for one year. The president is not eligible for reëlection.

An annual session of the Association is held at such time and place as determined by the House of Delegates.

Funds of the Association are raised by an annual assessment on its members of not more than ten dollars, by voluntary contributions for specific objects, and from the profits of its publication. Members may be dropped from the rolls if the dues or assessments remain unpaid for one year. Funds are appropriated by the House of Delegates.

A Board of Trustees of nine members has charge of the publication of all proceedings, transactions and memoirs of the association. It appoints an editor and such assistants as are necessary for these publications, determines salaries, etc.

To expedite and systematically perform its appropriate scientific work, the Association is divided into fifteen sections, each of which is devoted to the encouragement and pursuit of knowledge in one of the recognized branches into which the science and art of medicine are for convenience divided.

The general management of the Association is under the Board of Trustees. There are five standing committees, and as many special committees or councils as are needed fully to carry out the purposes of the Association.

The Committee of Arrangements has full charge of the annual meetings of the Association. The Judicial Council investigates and reports on all questions of a judicial character, interprets the code of ethics, etc. A Committee on Medical Legislation represents the Association in legislative matters pertaining to public health and scientific medicine. A Committee on Transportation secures special transportation facilities, rates, etc., for the members attending the annual meetings. The Council on Health and Public Instruction has in charge the instruction of the public in regard to infectious diseases and other subjects affecting the health of the community. The Council arranges for public addresses in practically every state in the Union for the instruction of the public. The Council on Medical Education and Hospitals, founded in 1904, exercises influence on medical colleges in relation both to entrance requirements and to the courses given. The work of this Council has been of the greatest benefit to the public in decreasing the number of low grade medical schools and consequently of incompetent and unscrupulous physicians. (*Vide infra.*)

The Council on Pharmacy and Chemistry (a standing committee of the Board of Trustees) investigates proprietary medicines submitted for study by manufacturers, or at the request of members of the Association, and thus puts a decided check on the exploita-

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tion of the medical profession by patent medicine makers and the swindling of the people by quacks and quackery. The Council defines "proprietary articles" as any "chemical, drug, or similar preparation used in the treatment of disease, if such article is protected against free competition as to name, product, composition or process of manufacture by secrecy, patent, copyright, or in any other manner." It has adopted certain rules governing the acceptance or rejection of these articles with the "object of protecting the medical profession and the public against fraud, undesirable secrecy and objectionable advertising in connection" with such articles. The acceptable articles are published in a yearly volume, with supplements, entitled *New and Non-official Remedies*. The rejected articles are so reported with other questions of an informative nature from the journal's Bureau of Investigation, from the Council, and from the laboratory of the Association, under the heading "The Propaganda for Reform," which appears weekly in the journal of the Association.

The Council is truly representative of the best thought in the field of medicine, consisting of sixteen members, twelve of whom hold professorial positions in the leading medical colleges of the country, and a staff of clinical consultants of fifteen, thirteen of whom hold similar positions.

The official organ of the Association is its *Journal ot the American Medical Association*, founded in 1882. It is published weekly with a circulation of over 80,000 copies. Its original articles are by representative physicians and cover the whole field of medicine. The *Journal* has a Therapeutic Department with practical suggestions for the treatment of the commoner diseases; a Medicolegal Department which summarizes important judicial decisions which affect the medical profession; a Propaganda Department which exposes the nostrum evil; a department of New and Non-official Remedies (*vide supra*). The *Journal* also contains an epitome of the medical literature of the world, society reports of the greater number of prominent societies of the country, editorials touching all points of medical progress, reports on medical education and state boards of registration, etc.

The Principles of Medical Ethics[3] of the American Medical Association, as adopted in 1912, are divided into three main headings: The Duties of Physicians to Their Patients; the Duties of Physicians to Each Other and to the Profession at Large, and the Duties of the Profession to the Public, with several sub-headings under each.

These Principles of the American Medical Association are adopted by all of the component state societies and by the county societies throughout the country and so may be looked on as the national code which regulates to a greater or less extent the professional actions of all members of the medical profession.

Beside the county, state and American Medical Societies, which include in their membership all physicians, there are numerous other local and national medical societies devoted more or less to special branches of medicine. With very few exceptions, these national bodies hold annual meetings, many of them coincidently in Washington, D. C. In footnote four,[4] below, is given a list of these national American societies, their names giving an inkling of the branch of medicine to which their deliberations are devoted.

[3] *See* page 260.

[4] LIST OF NATIONAL MEDICAL SOCIETIES

American: Academy of Medicine, Academy of Ophth. and Oto-Lar., Association of Anatomists, Association of Genito-Urinary Surg's,

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ADMISSION TO THE MEDICAL PROFESSION

The standards regulating the admission to the medical profession have been raised very decidedly during the past few years, and the privilege to practise after becoming a member of the profession is being granted under constantly increasing restrictions. The Council on Medical Education and Hospitals, of the American Medical Association, has classified all medical colleges in the country according to standards adopted after years of propaganda, study of the requirements of a thorough medical course, and thorough inspection of the schools. The Council secures data relating to each school which is grouped under four general heads in such a manner that each group is of equal importance. These data concern the faculty, the product, the administration and supervision, and the buildings and equipment, and each group is allowed twenty-five points. Medical schools containing 70 per cent or above of these requirements are classed as A; those between 50 per cent and 70 per cent, as B; and those containing less than 50 per cent, as C.

Under the subject "product" are placed the qualifications of students admitted, the "premedical courses," etc. At the present time six states require a preliminary education of four years high school before entering the medical schools of that state; four require one year college course; thirty-seven require a two year college course, while the District of Columbia and Wyoming have no fixed standard. Separate medical colleges have requirements higher than those demanded by the state. In 1910, 15.3 per cent of the graduates in medicine had a collegiate degree; in 1921, 46 per cent had a similar degree.

Of the eighty-eight medical colleges rated by the American Medical Association in the United States, seventy are classed as A, eight as B and eight as C, while two are unclassified. Eleven of these medical colleges give only the first two years of the medical course.

In 1906, there were 162 medical schools or colleges in the United States. The marked decrease in the number of medical colleges is the result of the universal demand for higher standards in medical education, and especially in the requirements for admission to medical schools. The old "diploma mill" is a thing of the past.

With the decrease in the number of medical schools there has been a decrease in the number of medical students and graduates. In 1904 there were 28,142 medical students, in 1913, 17,015 and in 1921, 14,872. There were 5,747 graduates in medicine in 1904, 3,679 in 1913 and 3,192 in 1921. Many of the medical schools have limited the

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Association of Obst., Gym. & Abd. Surg., Association of Path. and Bacteriologists, Association of Physicians, Association of Railway Surgeons, Child Hygiene Association, Climatological and Clin. Association, Dermatological Association, Electrotherapeutic Association, Gastro-Enterological Association, Gynecological Society, Laryngological Association, Laryn., Rhin. and Otol. Society, Neurological Association, Ophthalmological Society, Orthopedic Association, Otological Society, Pediatric Society, Physiological Society, Proctologic Society, Psychiatric Association, Psychopathological Association, Public Health Association, Roentgen Ray Society, Society of Tropical Medicine, Surgical Association, Therapeutic Society, Urological Association.

Association of Military Surgeons of the United States, Congress Am. Phys. & Surgs. of N. A., Conference of St. and Prov. Health Auth's, Medical Association of the Southwest, Mississippi Valley Medical Association, Missouri Valley Medical Society of the National Association for Study of Epilepsy, National Association for Study of Pellagra, National Tuberculosis Association, Society of Amer. Bacteriologists, Southern Medical Association, Southern Surgical Association, Western Surgical Association.

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number of matriculates in the first year.

The standard medical course in the colleges is four years. Ten medical colleges have adopted the requirement of a fifth year to be spent by the student as an interne in an approved hospital before the degree of M.D. will be granted.

According to published statistics gathered by the American Medical Association there are 353 medical colleges in all countries. In most of the principal countries a four year course is given.

The privilege to practise in any state is regulated by the laws of that state.[5] These laws differ somewhat, but have the same underlying objects: the protection of the public against the practice of medicine by men not properly qualified. With the exception of Colorado and New Mexico, every state requires that the applicant for registration shall have a diploma and pass an examination. An examination given under federal authority to medical officers of the United States Army, Navy, and Public Health Service is recognized by most state licensing boards. A National Board of Medical Examiners was established in 1915 for the purpose of conducting examinations of physicians that would be so thorough that there would be no doubt of their qualifications to practise medicine. The certificate of this National Board is recognized at the present time by twenty-one states. The National Board requires that applicants shall have had a four year high school course, two years of acceptable college work, a diploma from a medical school rated in Class A by the American Medical Association, and a year's service as an interne in an acceptable hospital.

The hospital interne year has been adopted as an essential qualification for the license to practise in ten states. The hospital in which the applicant passes his interne year must be approved by the licensing board. The licensing board generally interprets the law as to the necessary qualifications of a hospital to be suitable for the interne year. In Pennsylvania the Bureau of Medical Education and Licensure of the state inspects the various hospitals offering interne service and determines the suitability of each hospital for such service. The hospital standard has been raised very decidedly by the rulings of the Bureau and in many instances the action of the Bureau has been the only influence sufficiently powerful to induce boards of managers fully to equip their hospitals. At the present time there are not enough graduates of medicine to meet the demands of the hospitals of the state for internes.

The licensing boards of most states have the power to refuse registration or to revoke a license "for cause," the causes being specified in most instances. These include immoral, unsafe, unprofessional, or dishonorable conduct; habitual drunkenness; excessive use of narcotics; producing of criminal abortions; fraud or deceit; crimes or misdemeanors; habitual use of morphine, opium, cocain; habitual intemperance in the use of ardent spirits or stimulants or narcotics; false or fraudulent representations made to obtain practice; the assuming of another's name; failure to recognize dangerous contagious diseases, etc., etc. The withdrawal of the privilege to practise may be for a limited period or may be permanent in that state.

[5] *The Laws Abstracts and Board Rulings Regulating the Practice of Medicine in the United States and Brief Statements Regarding Medical Registration Abroad* is the title of a special publication (1921) which can be secured from the American Medical Society, 535 N. Dearborn St., Chicago, Ill. Price 60 cents.

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Numerous court decisions throughout the United States have upheld these legislative measures to prevent members of the medical profession from preying on society "by the exercise of deceit, malpractice, or gross misconduct in the practise of his profession."

As the licensing boards have felt, "soundness of moral fibre to insure the proper use of medical learning is as essential to the public health as medical learning itself. Mere intellectual power and scientific achievement without uprightness of character may be more harmful than ignorance. Highly trained intelligence combined with disregard of the fundamental virtues is a menace. A physician, however skilful, who is guilty of deceit, malpractice, or gross misconduct in the practice of his profession, even though not amounting to an offense against the criminal laws, well may be thought to be pernicious in relation to the health of the community."

THE DENTAL PROFESSION

The dental profession is composed of members who have special knowledge and attainments which are applied to the benefit of humanity. A large proportion of this profession give of their time and skill to the poor without compensation. Much of their work is prophylactic and their advice, if carried out conscientiously by their patients, would have a decided tendency to reduce the diseases and conditions requiring their attention.

THE SOCIETIES OF THE DENTAL PROFESSION

The dental profession is organized into a National Dental Association formed to promote the art and science of dentistry, to unite the dental profession into one compact body, to safeguard the material interests of the profession, to elevate the standards and improve the methods of dental education and to enlighten and direct public opinion in relation to oral hygiene, dental prophylaxis, and advanced scientific dental service.

The membership in the national organization consists of the state societies and members of the Army and Navy Dental Corps. The general government of the Association is vested in a House of Delegates which consists of delegates elected by the constituent societies. The House of Delegates elects the officers of the Association and a board of trustees, and transacts all the business of the Association, public, professional, or scientific.

For the purpose of advancing scientific work, the Association is divided into six sections, each caring for a particular branch of dentistry. The Association has organized and maintains a Scientific Foundation and Research Commission, which is charged with the duty of raising funds to carry on exhaustive dental and oral research, to disseminate scientific knowledge, and to organize and incorporate the Research Institute of the Association.

A Board of Trustees elected by the House of Delegates has full charge of the property and of the financial affairs of the association. The Board also has charge of the publication of the *Journal of the National Dental Association*, and of all proceedings, transaction, memoirs, etc. of the association.

The annual dues of the Association are $2, which also cover the subscription to the *Journal*. Membership is limited to members of the constituent societies.

Annual sessions of the Association are provided for by the Board of Trustees. Much of the general work of the Association is performed by its standing committees.

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A Judicial Committee considers all questions, complaints, protests and matters of an ethical nature. Its decisions are subject to appeal to the House of Delegates.

A Committee on Dental Education makes an annual report to the House of Delegates on the existing conditions of dental education in the United States, makes suggestions as to the means and methods by which the National Dental Association may best influence dental education, and acts as the agent of the Association in its efforts to elevate the standards of dental education.

A Committee on Dental Legislation coöperates with the officers of the state and local societies and with the chief officers of the United States Army and Navy in regard to legislation affecting the welfare of dentistry. It makes recommendations to the House of Delegates concerning pending legislation.

A Committee on Transportation arranges special transportation rates to the annual session.

A standing resolution provides that state and constituent societies shall add one dollar to their dues for the support of the Research Institute and that the funds so collected shall be remitted directly to the Research Institute.

The code of ethics adopted by the National Association is adopted by the state and constituent societies, and thus governs the entire dental profession of the country.[6]

The faculties of the various schools of dentistry have organized into a national body known as the National Association of Dental Faculties. The objects of the association are to advance the teachings of dentistry and to make it as uniform as possible throughout the country.

[6] *See* page 266.

A similar organization is composed of the state examiners for the registration of dentists. This body is known as the National Association of Dental Examiners, practically every state being represented, with the laws of various states governing their actions as examiners and making such actions official.

A Dental Educational Council of America is composed of five members from each of the three national organizations, the National Dental Association, the National Association of Dental Faculties, and the National Association of Dental Examiners. This Council adopted minimum requirements for Class A Dental Schools in 1916, revisions being made in 1917, 1918, and 1920. The object of the Council in adopting such requirements is to advance the standards of the dental colleges, thereby advancing the product of the school, the dentist.

The requirements of the Council consider the administrative policy of the college, the minimum entrance requirements, the faculty and teaching staff, the equipment and teaching facilities, the course of study and curriculum, the rules of attendance, promotion and gradation, and the state board record of each school, and outline fully the minimum in each case required to place the college in Class A. A Class B college does not meet all of the requirements of the Council for designation as A, but is making full utilization of its facilities and will be able to meet the higher requirements in a reasonable time. A Class C college, in the opinion of the Council, cannot meet the requirements of the Council without extensive improvements and complete reorganization.

There were nineteen Class A, twenty-four Class B and four Class C colleges listed by the Council in 1921. Graduates of Class C are not accepted for

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registration in any of the states of the Union. Class A and Class B graduates are eligible for registration in all states.

DENTAL ASSOCIATIONS

The state dental associations form the constituent societies of the national organization. Practically every state and territory in the union has such an organization. That of Pennsylvania will serve as a sample of the others.

The Pennsylvania State Dental Society was incorporated in 1869, the object being "to advance the science of dentistry, and thereby to lessen human misery by investigating the diseases incident and remedies applicable to the human mouth and its dependencies; by observing and recording the changes produced in dental maladies by the progress of the arts, population, manners and customs, temperament, age and sex; by searching for and applying the various remedial agents to be found in the several kingdoms of nature, by enlarging the avenues of knowledge from observations, discoveries and inventions, both at home and abroad, and by cultivating uniformity and order in dental practice."

Membership in the Pennsylvania State Society is limited to the members of the component societies. The dues are $2 per annum, payable to the component society of which the payee is a member, which society forwards the dues to the secretary of the State Society. Meetings of the Society are held annually.

The council of the Society has full control of its business, appoints all delegates and standing committees, selects the place for the annual meeting, nominates two persons for each vacancy to be filled in the officers of the Society and four persons for each vacancy in the State Board of Dental Examiners, two of whom are nominated by the Society to the Governor for appointment on the Board.

The standing committees are the Program, Clinic, Publication, on Ethics, on Dental Science and Literature, on Necrology and on Arrangement, whose duties are outlined by the titles.

The Committee on Ethics aids in maintaining the ethical standard of the Society. The code of ethics is that of the National Dental Association.[7]

The local dental societies which form the component societies of the state society are not necessarily county societies. Some of these local societies, such as the New York Society of Orthodontists, are composed of members of the dental profession especially interested in some particular branch of dentistry. Others, like the Pennsylvania Association of Dental Surgeons, or the Academy of Stomatology, include all members of the profession. Similar organizations are found throughout the Union, all component societies of their state organizations and all subject to the Code of Ethics of the National Dental Association.

The Pennsylvania Association of Dental Surgeons was organized in 1845 by dental surgeons of the city of Philadelphia who were "imbued with a love of our science, and desirous of improving and elevating it, and promoting the honor, character and interests of the dental profession."

Meetings are held monthly, except during July, August and September. Applicants for membership must be twenty-one years of age, of good moral character, and legal practitioners of dentistry. Any member may be impeached for contravening the laws of the society, for malpractice or other

[7] *See* page 266.

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misconduct. If a committee appointed for the purpose of considering the impeachment, after a fair trial, sustains the impeachment, the society may expel the member by a two-thirds vote.

The Academy of Stomatology was organized in 1894, the objects of the society being "the education and mutual improvement of its members in all matters pertaining to the study of the oral cavity by the presentation and discussion of papers; the collection of literature, specimens and models, and the study thereof; and the fostering of all efforts which tend to the advancement and elevation of dentistry as a profession."

A council is the governing body of the society. It elects all officers, has charge of all questions of finance, maintenance or betterment of the organization.

Membership in the society is limited to the organizers, not to exceed fifty, and such other members as may be elected by the Council after the names of applicants have been presented to all members for consideration and protest or approval to the council. The constitution of the Academy provides for the establishment and maintenance of a library and a museum for the collection and preservation of specimens, models, appliances, etc., pertaining to oral science, art and practice.

Meetings are held monthly, except during July, August and September. The annual dues are $10, of which sum $2 for each active member is forwarded to the Secretary of the Pennsylvania State Dental Society.

The Academy of Stomatology accepts as the standard for the guidance of its members the code of ethics adopted and set forth by the National Dental Association.[8]

[8] *See page 266.*

ADMISSION TO THE DENTAL PROFESSION

The practice of dentistry is regulated by the laws of the various states. Practically every state in the Union has passed laws for this purpose. These laws provide for the registration of dentists, the qualifications for registration, methods of examining, licensing, revoking of licenses, penalties for practising without a license, etc. The state law of Pennsylvania may be taken as an example of these laws.

In Pennsylvania, the Act of May 5, 1921, provides that a Dental Council, composed of the Secretary of Internal Affairs, the Commissioner of Health, the Superintendent of Public Instruction, the President and First Vice-President of the Pennsylvania State Dental Society and the Secretary of the Board of Dental Examiners, shall supervise and provide rules for the examination of all applicants for license to practice dentistry in the commonwealth, shall have the sole power to grant licenses to practice dentistry in the commonwealth, and shall have sole power to revoke licenses to practice dentistry "if the accused shall have been guilty of malpractice or convicted of a felony or of violating the dental laws of this comonwealth or shall be addicted to the use of narcotic drugs: provided, that any person whose license shall have been revoked shall have the right of appeal to a court of competent jurisdiction."

Applicants for registration must be twenty-one years of age, of good moral character, of competent education, and must have a dental degree conferred by a reputable educational institution approved by the Dental Council. The fee for registration is $25. The applicant is examined by a Board of Dental Examiners in certain specified subjects, with practical

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demonstration of their ability to perform dental work. License is granted by the Dental Council, and must be registered. All members of the dental profession must register once yearly, paying a fee of one dollar, which fees are to be used by the Board of Dental Examiners for the purpose of carrying into effect provisions of the Act against unlicensed and unregistered practitioners.

The law also provides for penalties to be imposed on those who practise without a license.

THE NURSING PROFESSION

Closely allied to the medical profession, in fact its right hand, is the nursing profession. Specially trained to care for the sick and injured, the members of this profession devote their time, energy and skill in aiding the medical profession to alleviate the sufferings of others, aiding it to prevent disease and aiding it in promulgating health measures. Its prime object is the service it can render humanity.

ORGANIZATIONS OF THE NURSING PROFESSION

The organizations of the nursing profession comprise local, state and national associations. The local organizations consist of the alumnae associations of the various training schools for nurses, usually connected with hospitals, in various sections of the country. These alumnae associations consist of graduates of their individual schools, "working together for a common good as comrades and companions to maintain the ideals of education, of harmony and of organization" of the nursing profession. Each group forms its own government, qualification for membership, etc. Meetings are held regularly, both for scientific advancement and for social intercourse.

Practically every state in the Union has a state organization, that of Pennsylvania being a good example of the form of organization maintained. In Pennsylvania the official organization is known as the Graduate Nurses' Association of the State of Pennsylvania. For the better furtherance of the purposes for which the Association was formed, the state is divided into districts, each district comprising several counties. Membership is limited to registered nurses who are members in good standing of their alumnae association.

The general supervision of the affairs of the Association rests with the Board of Directors which is composed of the officers, chairman of the Committee on Eligibility, and four directors. The Board arranges for the annual, or semi-annual meetings of the Association, prepares the program of papers, and attends to the general business of the Association. An Advisory Council, consisting of the officers of the Association, the presidents of the district associations, the chairmen of sections, the president of the State League of Nursing Education, and the president of the State Organization for Public Health Nursing, considers and promotes the general interests of the Association.

The voting body of the sessions of the Association consists of the regularly accredited delegates from the district associations, each district being entitled to one delegate for every twenty-five members.

"Any member whose moral or professional conduct may reflect upon the Association may be dropped from membership by the Board of Directors" after thorough investigation, the accused having the privilege to offer a defense.

The official organ of the Association is that of the national body, the *American Journal of Nursing*.

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The national body of the nursing profession is known as the American Nurses' Association, incorporated in 1901 under the laws of New York State, and in 1917 under the code of laws of the District of Columbia.

The purposes of the corporation "are to promote the professional and educational advancement of nurses in every proper way; to elevate the standard of nursing education; to establish and maintain a code of ethics among nurses; to distribute relief among such nurses as may become ill, disabled or destitute; to disseminate information on the subject of nursing by publications; to bring into communication with each other various nurses and associations and federations of nurses throughout the United States of America."

Membership is limited to members in good standing in the state associations belonging to the national association.

The general business of the association is vested in a Board of Directors. An Advisory Council to consider and promote the interest of the Association is composed of the officers of the Association, the presidents of state organizations, members of the Association, the chairmen of sections, and the editor of the *American Journal of Nursing*.

The general work of the Association is carried on by eight standing committees. A biennial convention of the Association is held. Dues are paid by the component societies, fifteen cents for each active member of each society.

There are forty-eight state members of the national body. The official organ, as has been said, is the *American Journal of Nursing*, published monthly. This is also the official organ of thirty-five state and other nursing organizations.

The National League of Nursing Education was formed in 1893 for the purpose of joining all directresses of training schools into an organization for the betterment of the instruction given to nurses. It has broadened out since then to include all members of the nursing profession who are engaged in educational work. These include superintendents and assistant superintendents of schools of nursing and hospitals, instructors, supervisors in schools of nursing and head nurses, members of state boards of nurse examiners and head workers in various forms of social, educational and preventive nursing. Many of the states have similar organizations, all of them being component societies of the national association.

Another important national organization is the National Organization for Public Health Nursing, which includes in its membership both lay and professional members. As its name implies, its activities are principally concerned with public health nursing.

In order to combine all types of nursing activities in one body, headquarters of the national nursing associations were established in New York. This organization was originally supported by the Red Cross, but at present is sustained entirely by the various national associations of nurses. One of its most important functions is to act as a placement bureau where applicants for positions in various administrative or teaching positions register; and where one may apply for assistance in obtaining such administrative or teaching nursing forces as are required.

ADMISSION TO THE NURSING PROFESSION

The standards of the profession have been gradually raised through years of constant endeavor on the part of the nursing associations. Educational and training facilities of the various hospi-

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tals with which training schools are connected have been thoroughly studied, and a standard set. There are in the country some 1,600 training schools for nurses, of which number 175 are to be found in Pennsylvania.

The education of the nurse for her professional work is obtained in training schools, practically all of which are connected with hospitals. To improve the standard of nursing and of the profession, every state in the union has passed laws providing for the registration of nurses which give the privilege of using the title "registered nurse," or the letters R.N. after her name. The registering of nurses is delegated to a board created for that purpose, the boards in most states having the power to determine the qualifications of the training school from which an eligible applicant for examination for registration may graduate.

The Pennsylvania state law may be taken as an example of the others. This law creates a State Board of Examiners for the registration of nurses, to be composed of three registered nurses and two physicians. The Board elects its own officers, among them a secretary who is required to keep a register of all nurses and attendants licensed under the law, and to file with the State Commissioner of Health an exact counterpart of all certificates issued.

The Board submits annually to the State Board of Charities a report of its findings or investigations pertaining to the training schools in the several hospitals throughout the state. The Board has no power to fix prices or in any way control the compensation received by the registered nurse. The Board prepares a report for public distribution of all training schools approved by the Board as possessing the necessary requirements for giving a pupil nurse a full and adequate course of instruction. All expenses of the Board are taken out of registration fees.

A member of the Board is elected as an Educational Director, whose duty it is to assist in maintaining the necessary standards in living, working, and educational conditions of the various training schools.

The law provides that every applicant, to be eligible for examination for registration, must furnish evidence satisfactory to the Board that he or she is twenty-one years of age, is of good moral character, and has graduated from a training school for nurses which gives at least a two years' course of instruction. Those receiving a certificate of registration may call themselves registered nurses and use the letters R.N. All states provide penalties ranging from fines to imprisonment as punishment for those illegally using the title.

The Pennsylvania law also provides for the registering of licensed attendants, after examination. Such applicants must be eighteen years of age, of good moral character, must have completed a course prescribed by the Board in some institution not having a training school for nurses. The licensed attendants are permitted to use the letters L.A. after their names. In every state the law provides that the act shall not be construed so as to affect in any way the right of any person to nurse gratuitously or for hire.

Registration of any nurse or attendant may be revoked by the Board of Examiners in any state for "sufficient cause," these causes varying in the states and including gross incompetence, dishonesty, habitual intemperance, immorality, unprofessional conduct, conviction of felony, any act derogatory to the morals or standing of

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the profession, conviction of a crime or immoral conduct, inebriety, drug habit, habitual intemperance, drunkenness, neglect of patient, certificate obtained by fraud,[9] etc.

The Board of Examiners determines the eligibility of graduates of training schools, and outlines the standards of the schools. In Pennsylvania, the Board also outlines the minimum number of hours of instruction and the curriculum which must be followed. This curriculum calls for 484 hours of theoretical instruction, extending over three years, the various subjects and hours allotted to each being fully outlined.

Applicants for admission to the schools must have had one year high school education, or its equivalent, must present a certificate of good health and good morals, and must be between the ages of eighteen and thirty-five.

THE PHARMACISTS

The pharmaceutical profession is one "which demands knowledge, skill and integrity on the part of those engaged in it, being associated with the medical profession in the responsible duties of preserving the public health and dispensing the useful though often dangerous agents adapted to the cure of disease."

PHARMACEUTICAL ASSOCIATIONS

The American Pharmaceutical Association was organized in 1852 for the purpose of uniting the pharmacists of America in a body which should improve and regulate the drug market, encourage proper relations among druggists, pharmacists, physicians and the people, improve the science and art of pharmacy, suppress empiricism, uphold standards of authority in education, theory and practice of pharmacy, create and maintain a standard of professional honesty, etc., etc.

Membership consists of pharmacists and druggists of good moral and professional standing, teachers of pharmacy, chemistry and botany, editors and publishers of pharmaceutical journals, who are endorsed by two members of the association and then elected by majority vote of the council of the association. All members subscribe to the "Code of Ethics" adopted by the Association at the time of its organization.[10]

The annual dues are $4; the price of the official organ, the *Journal of the American Pharmaceutical Association*, is $4. A reduction of $3 is made when both dues and subscription to the *Journal* are paid at one time, in advance.

The business of the association is vested in a council which consists of the officers, *ex-officio*, one member from each local branch of the association and nine other members selected from members who have had at least three years membership in the association.

A Reporter on the Progress of Pharmacy is appointed annually for the purpose of preparing a comprehensive report on the improvements and discoveries in pharmacy, chemistry, and materia medica and of preparing an index or brief abstract of current pharmaceutical and chemical literature for publication in the journal of the association.

The council elects the officers of the association: has charge of the revision of the roll of members, the editing, publication and distribution of all publications of the association. It elects two standing committees of the

[9] For the Code of Ethics of the Graduate Nurses' Association of the State of Pennsylvania *see* page 265.

[10] For this code *see* page 267.

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council, one on Publication and one on Finance. The council publishes the official organ of the association, its journal. It also appoints a committee of fifteen, from the members of the association, which has charge of the revision of the *National Formulary* which contains definite formulas for preparations frequently used in medical practice, for which formulas are not contained in the *United States Pharmacopoeia*. It is the standard governing the members of the association.

Meetings of the association are held annually. To expedite and render more efficient the work of the association, sections are provided on Commercial Interests, on Practical Pharmacy and Dispensing, on Pharmaceutical Legislation and Education, on Historical Pharmacy, with a Women's Section and a Scientific Section with subdivisions on Chemistry, Botany, Biologic Assays, and Bacteriology. Various standing committees are appointed or elected, such as that on United States Pharmacopoeia, on Transportation, on Research, on Pharmaceutical Syllabus, etc.

Local branches of the association are formed in the various states, all members of the local branch being members of the national association. Each state in the union has its pharmaceutical association. The United States is also divided into districts, each consisting of several states, and each having its separate organization.

Other national associations connected with the profession of pharmacy are as follows:

The National Association of Retail Druggists, with component societies consisting of local associations of retail druggists.

The National Association of Boards of Pharmacy. The state boards of pharmacy have in charge the examination of applicants for registration as pharmacists, making the requirements for eligibility, etc.

The American Conference of Pharmaceutical Faculties, which prepares a list of the schools or colleges of pharmacy of recognized merit. Efforts are being made to raise the general standard of all colleges by increasing the educational requirements for admission. Graduation from a recognized college of pharmacy is a prerequisite to examination for registration as a pharmacist in all states.

The American Drug Manufacturers' Association.

All of these national organizations hold annual meetings.

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Ethics and the Engineering Profession

By Morris Llewellyn Cooke

Consulting Engineer, Philadelphia, Pennsylvania, Member, American Association of Engineers, Member, American Society of Mechanical Engineers

WHAT we are interested to know about any group, especially about a group which easily numbers 200,000 throughout the nation, is something as to its ideals. And thoroughly to understand that situation we must know the ideals of yesterday, as well as those of today, in order to see the drift and so to discern the probable ideals of tomorrow. The ethics or standards of conduct of any profession or group are very largely the reflection in action of its ideals. The moment ideals become fixed or static they are dead. This is the law of life. When we clothe a code of ethics as a guide to conduct with the quality of finality, it becomes as futile as sounding brass. Whether for the individual or the group it is in the light of our living, vibrant aspirations that all question of conduct must be tested. This is the constitution which rectifies the quibbles of language and the conflicts of interests.

Someone has said that an artist is one who holds ideals up before the people. If there is to be any significance in the term "profession" surely all professional men must qualify in this respect as artists. And engineers seem to be moving in this direction. One of the engineering societies, the American Society of Mechanical Engineers, was founded about forty years ago very largely on the ideal that there was a sufficient content in the science of mechanical engineering to warrant a national society devoted to its development. We have been told by the founders that among the majority of the charter members the view was strongly held that if all commercial considerations were to be excluded the residue would not be sufficient to warrant the attention of a large national group. Of course, these doubts have long since been dissipated and today it seems like a platitude to say that the science connected with the mechanical arts is limitless in extent. This bit of history is cited here as affording a very concrete example of the way in which we progress through weaving into the fabric of the future materials which may not even be available today. The long look ahead—a point of view denied to those who are wholly engaged with present necessities—seems inherent in the equipment of the professional man.

About one hundred years ago when the British Institute of Engineers was founded, engineering was defined as "the art of directing the great sources of power in nature for the use and convenience of man." Perhaps it was all there, but who can fail to see the overwhelming growth in the conception of the possible function of the engineer as shown in Herbert Hoover's definition of engineering as "the profession of creation and construction, of stimulation of human effort and accomplishment." And must it not be assumed that with the fuller realization of this concept of the field of engineering action there will come corresponding changes in the accepted standards of professional conduct.

Perhaps the most fateful step taken within the profession since its inception is the inclusion in the constitution of the Federated American Engineering Societies of a clause which

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reads, "This organization shall stand for the principle of publicity and open meetings" and the adoption in open convention of an interpreting by-law which reads, "The privilege of attendance at all meetings of the American Engineering Council, of the Executive Board, and of committees, when not in executive session, shall be extended to any proper person," and further, "Any proper person shall have the right to inspect and make true copies of the official records of all meetings of the Council, the Executive Board, and committees." To the credit of this organization it can be said that during 1921, its first year, it resorted to the executive session device but twice and then but for a few moments on each occasion. In the light of subsequent happenings at least one of these lapses was unnecessary and probably hindered rather than helped the work in hand.

Assuming that this radical departure in favor of publicity in engineering was made wittingly by these representatives of nearly 80,000 of the most representative American engineers and that it receives the understanding support of the rank and file and that in due course it is made a feature of the organization of all engineering bodies, then engineering becomes essentially a possession of the community, and this in a sense denied to other professions and even to government. It is usually assumed that the details of government, for instance, are open to public knowledge and inspection. But the necessities of party government, international relations and the relations between a public buyer and a private seller, frequently act as a more or less complete block to publicity. Obviously in law, medicine and the ministry, because of the paramount rights and privileges of the individual, there are frequent and uneradicable limitations to publicity. But if the profession of engineering ever gets the vision as to the workability of complete publicity throughout its field, the change thereby effected in the life of the peoples and their governments will be far-reaching. The ethics of the profession will, I believe, frown more and more insistently on the use of engineering knowledge in secret ways and in secret places. Publicity in engineering neither challenges nor endangers any proper interest, public or private. The day will surely come when in a very real sense every engineer will be a public engineer.

Up to within a few years all engineering codes in this country were modelled after the code of the British Institution of Civil Engineers. The remarkable fact about this code and those which grew out of it was the failure to mention the public interest as a test—if not the supreme test of action. This omission has been very fully covered in the code adopted by the American Association of Engineers and published in the appendix to this volume.[1] A reasonably satisfactory recognition of the obligation is contained in the proposed Joint Code quoted in Mr. Christie's article.[2] The basic thought is adequately and eloquently expressed in the preamble to the constitution of the Federated American Engineering Societies as follows:

> Engineering is the science of controlling the forces and of utilizing the materials of nature for the benefit of man, and the art of organizing and of directing human activities in connection therewith.
>
> As service to others is the expression of the highest motive to which men respond and as duty to contribute to the public welfare demands the best efforts men can put forth, NOW, THEREFORE, the engineering and allied technical societies of the United States of America, through the

[1] *See* page 277.

[2] *See* pages 101–3.

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formation of the Federated American Engineering Societies, realize a long cherished ideal,—a comprehensive organization dedicated to the service of the community, state, and nation.

The same idea is covered very completely in the last clause of the "Management Engineers' Creed," a terse code used by the Taylor Society, a society to promote the art and science of administration and management, which reads as follows:

> The sublimest duty of the engineer is to keep the faith: The faith of the client that he will not undertake what he knows to be beyond his ability; and that with respect to what he undertakes he will give conscientious service to the limit of his ability;
>
> The faith of his fellow engineers that he will remain true to his science and will magnify and not cheapen it; and that he will base his efforts for public recognition upon ability, scientific attainment and actual performance, and not upon ambiguous self-laudation;
>
> The faith of the community that he will undertake no service inconsistent with the public welfare; and that in service consistent with public welfare, but in which the interests of groups appear to come in conflict, he will judge carefully and sympathetically the claims of rival interests, and attempt to establish that unity of purpose which promotes the public welfare.

The ultimate goal here is the flat-footed declaration that good engineering must be in the public interest and, contrariwise, that any engineering which is anti-social must be bad engineering.

These obsolete codes, such as those of the British Institution and that which now stands on the books of the American Society of Mechanical Engineers, were drafted under the conception that engineering was a craft and that those who practised it constituted a fraternity and as such owed a higher obligation to fellow-practitioners than to the public. In a code adopted as recently as June, 1917, by the Western Society of Engineers occurs this sentence, "The ethical standards of the engineering profession should be those of a fraternity." In these earlier codes there was a strong reprobation against the use by engineers of anything but technical publications for making announcements of their discoveries, inventions, researches, etc. This had the tendency to make of engineering a cult rather than to advance the more obvious purpose, which was to discourage engineers from reaching the public prematurely. These weaknesses have been completely overcome in the more recent codes.

In the light of what has been said, the writer's apprehensions as to codes of ethics, interpretations of such codes and discipline under the codes will be clear. Just as laws are always interpreted in the light of the constitution, so ethical codes must always be interpreted in the light of the ideals of the profession. Hence it may easily become at any given time the highest function of the professional engineer to act and speak contrary to a code—or to all the codes—if by so doing the ideals of the profession may be conserved or advanced. Nowhere is the heresy of today more apt to be the honored standard of tomorrow than in the relatively unexplored field of engineering practice.

The greatest safeguard in the development of a proper procedure for the enforcement of ethical conduct is publicity. Possibly the present almost entire lack of publicity in these matters can be defended from the standpoint of the newness of our machinery and the liability to error growing therefrom. But absolute publicity must be the goal. The American Institute of Architects seems to set the pace in this respect.

In the long run it would probably

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prove advantageous if we could declare, say a five-year period, in which absolutely no discipline or punishments would be meted out to offenders. This closed season would give everybody a chance to put his house in order if such revision be necessary. Five years is all too short a period in which to ascertain the mind of the profession through the investigation of complaints and the publication and discussion of interpretations. In the enforcement of ethical standards it must be the mind of the profession rather than that of a committee or a group which must be the authority. As the writer has said in another place:[3]

> Ethical conduct for engineers is such as has received more or less general sanction. This means that conduct which at one time and place may receive very generous approval at another time or in a different locality may be generally considered reprehensible. So that the master test as to whether conduct is ethical or not depends largely on what people *generally*—and of course I mean well-intentioned people—think about it. That to have an individual or even a group agitate for certain reform has a value should go without saying. In fact, most improvements are brought about in this way. But these higher standards only become the rules for conduct when through education they have become *accepted* as proper by a sufficiently large or influential element within the given constituency. The point I want to make is that the writing out of a code or set of rules is useful only in establishing good conduct when such injunctions are so phrased as to be accepted as reasonable by those whose conduct they are intended to regulate. Neither the wisdom nor the exalted character displayed in the text is the test. The acceptance by the community is what makes the conduct ethical or not. In the same way our engineering practices are ethical or not as they conform to what may be called the best sense of the profession.

[3] *Professional Engineer*—November, 1920. Pp. 7–8.

In the work of the Practice Committee of the American Association of Engineers my attention is constantly called to the difference between unethical conduct on the one hand and illegal and immoral conduct on the other. If the profession of engineering is to secure the confidence of the community in the degree necessary for the execution of a high task, it must erect standards such as will not only give the public no cause for suspicion but create in the public mind that absolute confidence which is the antithesis of suspicion. Think of the limitless freedom which the medical profession enjoys in the homes of the world. The wonder does not lie in the fact of this freedom. It lies rather in the fact that the members of the medical profession have carried themselves so faultlessly in these intimate relationships that we never pause to wonder at it.

Surely then we engineers can assume moral and legal conduct. Such conduct is inherent in every code. The man who offers a bribe or who requests one is guilty of an immoral act and usually of an illegal one. But it does not aid in the upbuilding of ethical professional standards to confuse such a breach of the moral sense of the community, or law-breaking of any kind, with those higher rules of conduct which are supposed to set off the professional man as a class entitled to the highest respect of the community.

The idea of leadership in the community seems to be inherent in the term "professional man." But leaders do not require the control of codes and procedures for their enforcement. Hence it is easy to read too much importance into such devices. They have an educational value for the young and also exert a deterring influence on those who do not want to play the game. Indeed, codes of ethics and the mechanisms through

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which they are made effective may be likened to "trench cleaners" in modern warfare. Periodically the necessities of combat require that the trenches and the rear be freed of those who have not accepted the issue of battle. But the real line of advance—the shouting and the glory and the flag—are way out in front in No Man's Land and beyond.

It seems altogether possible that the engineer will play an increasingly important rôle in the immediate future. The Great War, with its lessons as to what can be accomplished through organization and the applications of science to the affairs of men, is still fresh in the minds of the peoples. There seems to be every incentive not only for the engineer to go forth to meet glorious opportunity but for the public to welcome him with open arms. But History is full of lost chances. Given the excuse, a public in a surprisingly short time can grow lukewarm and even antagonistic. Civilization needs the "know how"—the constructive, creative mind—as never before.

The work ahead is one of producing world-wide effectiveness rather than individual or national profit, of cutting out waste rather than regimenting men. The engineer if he is to be equal to the task must approach it altogether from the service angle. To make us worthy and able for this task nothing will be of greater assistance than high standards of professional conduct—the higher the better. In fact the opportunity now knocking at our door will not be fully embraced until a deep spiritual relationship has been established between the engineer and a race set free.

The Ethics of the Mechanical Engineer

By CALVIN W. RICE
Secretary, American Society of Mechanical Engineers

IN the concept of his obligation to society, the mechanical engineer has always possessed an idealism, although it was not actually formulated until comparatively recent years. Whereas some of the organizations representing other branches of the engineering profession may have had codes of ethics, formally approved and recognized by their bodies at an earlier date than the first code of the American Society of Mechanical Engineers, it is inconceivable that with such founders as this Society possessed and with such engineers as have been included in its rolls of membership through practically the half century of its existence, the members of the Society have not taken on the ideals and motives of these leaders as a guide for their professional conduct and in their relations to society. Men like Professor John E. Sweet, Alexander L. Holley, H. R. Worthington, Professor R. H. Thurston, its first president, all of whom were included among the founders of the Society, and men like Henry R. Towne and Captain Robert W. Hunt, fortunately still living, are all such recognized examples of practitioners of the highest ethical standards, that any organization fortunate enough to include their names within its membership must perforce adhere to high principles of ethical conduct or else such men would not continue as members. Such an organization must base all its transactions upon the

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principle of the Golden Rule, which is after all, what a code of ethics really is.

The necessity for a joint code of ethics for all engineers arises from the fact that, unlike lawyers and doctors, engineers are not organized into one professional body. The engineering organizations now in existence have all evolved from small professional groups interested in specialties. The early meetings of these bodies were devoted to the discussion of papers within specific fields of engineering in contra-distinction to giving attention to the broad and general problems of the engineering profession. In those days, some half a century ago, the community of interests of the several kinds of engineers was not recognized since it was the habit for engineers to segregate into professional groups. Today the great national engineering societies are an important evolution of these groups and are organized along what have come to be the four main branches of engineering practice: civil, mining and metallurgical, mechanical and electrical.

Within the last few years, with the growing concept of the professional obligation within the engineering profession, a number of joint movements have developed, so that by the time the War came the sum total of cooperative and conjunctive activities of the engineering organizations had become very large. The War brought home to us all the essential principle of the obligation of the engineer to society, and since the War, with the complications of civilization still in progress, this sense of obligation has been accentuated until now the underlying ideal of the professional engineer is professional unity.

With the stage thus set, the American Society of Mechanical Engineers enthusiastically joined in the idea of a code of ethics in common for the engineering profession, and within the last year has participated in steps to secure the formulation of a code which would be acceptable to all engineers. The subsequent recounting in this article of the progress of a code of ethics within the American Society of Mechanical Engineers, during the ten years prior to the inception of this joint code, will convey an idea of the difficulties still to be overcome. However, it is hoped that, with the great incentive of the need throughout the world for the resumption of progress, and with the realization that it is to America, free as she is from the results of the War, that the world is looking for leadership, these engineers who are leading the profession will be imbued with a new determination and a concentration of effort towards the realization of the ideals of the professional engineer.

THE MECHANICAL ENGINEER'S RESPONSIBILITY TO SOCIETY

The essential difference between a professional man and one skilled in any craft is the urge for his undertaking; that is whether it is simply a means of livelihood or whether it is the devotion of his talents to the common good, trusting that he will receive proper compensation. Assuming that the latter concept of the obligation of the mechanical engineer is accepted as the essential end for his professional career, then a code of ethics becomes necessary not only to assist the mechanical engineer in his conduct, but to acquaint the world with what it may expect from a professional man, thus rendering the profession, as such, stable and recognized by society.

HISTORY OF THE CODE OF ETHICS OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS

Those who are familiar with the inner workings of the volunteer efforts of individuals within societies, not

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alone professional, will appreciate the fact that only on very rare occasions and under some great incentive does an organization ever become single-minded and express itself as being so. Actions must necessarily be compromise actions; radically new policies are rarely attempted unless there has been previous deficiency, and a new policy is simply corrective of some form of weakness. In a professional society most of the members behave themselves most of the time and fortunately violations of the laws of professional conduct are exceedingly few and far between.

It is only when there is some flagrant violation of the code, and considerable publicity is given to the case that those members of the society most ethically minded wonder whether the principles of conduct for fellow members have been sufficiently prescribed and if they have not, whether it would not be advisable to revise the existing canons or to make new ones. Of course this kind of questioning does not take place very often until the standards of conduct have become fairly determined.

All the above is as a preamble to saying that it was not until about 1910, thirty years after its organization, that the attempt was made within the American Society of Mechanical Engineers to formulate a code of ethics. In January of that year the Council of the Society "approved the appointment of a Committee to consider respecting the advisability of the Society's preparing a code of ethics." A committee consisting of Mr. Charles Wallace Hunt, Dr. W. F. M. Goss, and Professor John E. Sweet was appointed. The discussion which led the Council to take its first action is not recorded, but a subsequent action is stated to have been taken:

Whereas, The Society is often addressed on the general subject, and *Whereas*, The American Institute of Electrical Engineers have just adopted an admirable code of ethics:

Voted: That a Committee of three be appointed by the President to consider and report its recommendations to the next meeting of the Council.

The first Special Committee of three was later increased to five and its personnel changed to Charles Whiting Baker, Chairman, Charles T. Main, Colonel E. D. Meier, Spencer Miller and C. R. Richards. It was this augmented committee which in December, 1912, presented a report to the Council embodying a code of ethics.

The Council voted "to receive this report and publish it in the journal of the Society, with special emphasis on the suggestion of the Committee that the membership at large be invited to make suggestions and criticisms, to be sent to the Committee." It was also voted "that this report be made a matter of discussion by the Society as a whole at its semi-annual meeting held in Baltimore in 1913."

The proposed code was discussed at that meeting of the Society and the following action was taken:

Resolved: That it be recommended to the Council that the proposed code of ethics be printed in pamphlet form and a copy mailed to each member of the Society, accompanied by a ballot so prepared that each member may vote upon each clause separately; and that if the majority of those voting are in favor this meeting recommends that the Council shall declare the report approved and shall arrange for the appointment of a committee on the interpretation of the code.

The code was duly issued and submitted to letter ballot of the membership in October, 1913, and the ballot was favorable. The code was thereby adopted by the whole Society. Mr. Charles Whiting Baker, Chairman, Charles T. Main, Colonel E. D. Meier,

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Spencer Miller and C. R. Richards, the original committee which formulated the code, were appointed a Committee on Interpretations.

THE FIRST CODE ADOPTED BY THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS

An analysis of the first code of ethics of the American Society of Mechanical Engineers reveals the fact that its purport was chiefly admonitory. This code, which was not a code of principles so much as a code of recommended practices in specific cases and injunctions against performing specific acts of impropriety is reprinted on page 271 of this volume.

ATTEMPT AT A SECOND CODE

At the end of 1918 a wave of idealism swept through the United States and professional engineering societies made investigations of their activities in the light of their new concepts. In common with the other societies, the American Society of Mechanical Engineers appointed a special Committee on Aims and Organization which made recommendations concerning the Society's activities and also concerning the activities of a national engineering organization in connection with the community.

The report of this Committee consisted of a series of different recommendations, condensed to a minimum number of words and enumerated without very much preamble. The object of such a report was to focus attention on the most important activities to be developed and to avoid detail of discussion. The report of this Special Committee on Aims and Organization contained the following regarding the code of ethics:

RECOMMENDED: That it is the sense of this Committee that a short code of ethics of broad scope, general character and positive rather than negative injunction, be prepared and that the same be enforced vigorously.

RECOMMENDED: That a Committee of five on Code of Ethics be nominated by the President and confirmed by the Council who shall report back to the Society at the Annual Meeting.

Upon the adoption of these recommendations by the Society, the Council appointed a new committee, consisting of Professor A. G. Christie, Chairman, Mr. Robert Sibley, J. V. Martenis, T. H. Hinchman, H. J. C. Hinchey and Charles T. Main, to prepare a new code, and to consider a means for enforcing it. This Committee reported to the Council on April 19, 1920 and the report was referred to the membership at the Spring Meeting of the Society in the following month.

The discussion at the Spring Meeting was extended and earnest, and the code was referred back to the Committee for restatement in the light of the discussion.

At the same time the Society recognized the recommendation of the Committee that a code should be common to each branch of the profession, and it was therefore offered to the other engineering societies for their consideration. This was the beginning of the efforts for a joint code which are still under way.

The Special Committee before revising the language of the code thought it well to take into consideration representatives of the other engineering societies and recommended the appointment of a Joint Committee. The civil, mining and metallurgical, and electrical engineers responded, as did also the American Society of Heating and Ventilating Engineers, and later the American Society of Refrigerating Engineers.

The representatives of the American

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Society of Mechanical Engineers on this Joint Committee are expecting to present again the proposed code, revised in coöperation with the representatives of the other societies, at the forthcoming Spring Meeting of the Society. The Committee still adheres to its plan of a Committee on Professional Conduct to enforce the code, and in fact regards this as an essential requirement.

The proposed code is printed in full on page 271.

It is the belief of many now within the American Society of Mechanical Engineers that success is now not far off. The forces operating for the adoption of the code have now reinforcements from an entirely different direction. The Committee on Constitution and By-Laws of the Society was requested two years ago to present to the Society an entire revision of the constitution and by-laws. This Committee has incorporated in the constitution an article headed "Professional Practice," the first section of which reads:

> In all professional and business relations the members of the Society shall be governed by the Code of Ethics of the Society.

This section of the constitution is supplemented by the following by-law:

> All members of the Society shall subscribe to the following Code of Ethics as required by the constitution:
>
> (Here is to be inserted the new Code of Ethics when adopted by the Society.)

There follows a second paragraph in the by-laws:

> All matters in connection with the administration of the Code of Ethics shall be in charge of the Standing Committee on Professional Conduct under the direction of the Council.

The duties of the proposed new Standing Committee on Professional Conduct are prescribed in the following proposed new by-law:

> The Standing Committee on Professional Conduct shall, under the direction of the Council, have supervision of all matters relating to the Code of Ethics and its enforcement, as required by the constitution, and as detailed in the rules. The Committee shall consist of five members and the term of one member shall expire at the close of each Annual Meeting.

These matters of the Constitution and by-laws are likewise to come before the Society at the forthcoming spring meeting.

The work on a Code of Ethics for Mechanical Engineers has, therefore, consumed twelve years to date, and has now the prospect of full realization.

Ethics of the Engineering Profession

By FREDERICK HAYNES NEWELL
United States Reclamation Service, Washington, D. C.

IN its ideals the engineering profession is not surpassed by those of any other group of public servants. In practice, however, because these ideals are so altruistic, it has been found difficult to reduce them to a brief statement and to secure general agreement upon such statement. Most attempts to produce a brief code comparable with the Decalogue have resulted in little more than an expansion of the Golden Rule, such, for example, as is the code of ethics adopted by the American Society of

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Civil Engineers on September 2, 1914.[1]

There has been much discussion by engineers of the need of adopting a comprehensive code in order that the ideals of the profession may be presented clearly to the young engineer. On the one hand, these efforts have been scoffed at; indeed, in the case of one of the national engineering societies, it was "decided that no gentleman needed a code of ethics, and that no code of ethics would make a gentleman out of a crook." At the other extreme, there are elaborate results, such as those of the American Institute of Electrical Engineers and other organizations, quoted by Daniel W. Mead.[2]

The chief difficulty in agreeing upon and adopting a code of ethics for the entire engineering profession has arisen from the fact that there is little agreement, even among engineers, as to the meaning or limitations of the words "engineer" and "engineering," and of the word "profession" as applied to engineering. In the evolution of the English language, the word "engineer" has come into such common use and has been made to include so many different practices that it is now necessary to use some qualifying adjective in order to have a common understanding as to what is meant when using this term.

GRADATIONS OF THE TERM, ENGINEER

In contrast, there is little relative difference in conception when we speak about an architect. This is a term which applies to a rather limited body of professional men, and, moreover, it has been defined by law. In contrast with this, the word "engineer" as employed by a professional engineer has an entirely different meaning from that understood by the general public or as interpreted by court decision.

In Great Britain the engineer is a mechanic, and, in legal usage, is a man who operates an engine. The organizations of engineers in Great Britain are to a large extent comparable with trade unions in America. In the United States there are possibly a half-million men who, in common usage, are known as engineers, and yet none of whom would be eligible for membership in one of our great engineering societies. The engineer, as the word is popularly used, may be a mechanic, a tradesman, or a professional man. The division between these groups is broad, and it is almost impossible to draw a sharp line.

Some of the best known professional engineers in the United States, prominent in the affairs of technical engineering societies, are themselves business men as well as engineers, managing or controlling directly or indirectly large corporations which construct, build, or sell engineering works, machinery, or power. Many of the leaders have come up through the ranks, and at one time or another have been draftsmen or mechanics, and as such have been eligible for membership in labor unions, even if they have not actually taken out a card. Others, educated in the best engineering schools and for a time serving as professional engineers, have become business men and have gone into contracting or trade relations without losing their standing as professional engineers.

Yet, in spite of these uneven gradations, there is an attempt made at all times to hold before the eyes of the professional engineer certain standards of conduct which differentiate him from the business man, contractor or mechanic. He cannot go so far as the

[1] For this code, *see* Appendix, page 273.

[2] "Contracts, Specifications and Engineering Relations." Daniel W. Mead, New York, McGraw Hill Book Company, 1916.

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architects in acquiescing to the first rule of their code of ethics, which states that it is unprofessional for an architect "to engage directly or indirectly in any of the building trades." In fact the rigid adoption of such a rule might bring under the ban some of the most prominent members of the engineering profession, owners or partners in engineering corporations, nor has it been found practicable by engineers to follow the architects in their declaration that it is unprofessional to advertise. This drastic rule has been softened by the statement of the civil engineers that it is inconsistent with honorable and dignified bearing "to advertise in self-laudatory language, or in any other manner derogatory to the profession."

The ethical code of the engineer has been founded upon such long experience as has demonstrated that "honesty is the best policy." There may be, and doubtless are, many members of the profession who would prefer to consider that their ethics were purely altruistic and based upon the idealism of Kant, following his stern precepts of absolute devotion to duty and of self-negation. Such men there are in every profession, but the code of ethics has been evolved not by these stern idealists, but rather by the appeal to common sense and fair play, necessitated by the so-called practical conditions that surround the profession. Thus the civil engineers make the prohibition not against advertising but against carrying advertising to the point of self-laudation.

Because of the difficulty, found by the different branches of the engineering profession, in agreeing upon a common code, there has been a tacit agreement upon the point that the only way to perfect a code of engineering ethics is to follow the precedent of the British Institution, namely, to make decision upon specific questions as they arise, the body of decisions thus furnishing a code which it has been found impossible to write out and to agree upon in advance. Such decisions reveal the underlying principles and can be appealed to in other cases until these principles thus become firmly established in the minds of all concerned.

THE CASE METHOD OF CODE BUILDING

This so-called "case" or project method of building up a code has been put into practice by the American Institute of Consulting Engineers and by the American Association of Engineers. In both of these organizations, composed largely of civil engineers, a simple code has been adopted, and then, as specific cases arise which seem to need consideration, each of these has been considered on its merits and a decision published, stating, without giving names, the facts of the case and the conclusion reached by the Practice Committee. As these cases increase in number and cover more and more widely the conditions which occur in actual practice, there must result a better comprehension, not only of the ideals of the profession, but of the way in which these may be put into effect.

There are thus taken up and considered in succession, numerous questions regarding professional conduct as these arise between members or in daily contact with federal, state, or local officials and business men. The simpler personal matters are passed over quickly by the Practice Committee, but those involving the application of an important principle of ethics are given full consideration and are ultimately published without name. They thus form the basis for general discussion and become interwoven in

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the thought of engineers. The decisions result in a body of practice which in effect performs the function of a code of ethics, a code based upon positive or experimental data.

"It is certain that while experience has shown that an authorized and definite code of conduct is generally subversive of moral stamina through its absorption of personal responsibility, still ethics must be made work-a-day to a considerable degree, for they can then, if not slavishly followed, serve as guiding lights, or as points of departure, when a particular situation finds an individual unprepared by his own experience."

Of course, no code can satisfy all conditions. As has been stated, "Engineering, like war, is in practice a far more developed complex than when considered speculatively and coldly as a science. When it enters the world of commerce, it gathers the burdens of human nature. Its problems become those of business as well as those of the laboratory." [3]

ENGINEERING AS A PROFESSION

There has always been, and probably always will be, a wide difference of opinion as to whether or not engineering is a learned profession comparable to law, medicine and the ministry. There are plenty of examples of devotion to ideals and of a purely professional attitude of mind in engineers comparable to that of any body of men in any one of the older professions. On the other hand, the advocates of the view that engineering is not a profession point to the facts, above noted, that the great body of men who are called engineers are by no means professional men, but are actively engaged in the ordinary business of life.

[3] *Engineering Record*, March 17, 1917, page 409.

Various organizations of engineers have attempted from time to time to meet this condition, and, as they term it, "to raise the standard" of the profession. Great care is taken in passing upon the credentials offered and in admitting the applicants to full membership, with the idea that in so doing there will be segregated from the great mass of so-called engineers a rather select group who in their professional characteristics will be comparable to an equal number of members of one of the other professions. The principal difficulty, however, arises, as before indicated, in the fact that engineering is entering more and more definitely into the life and business of the ordinary citizen, so that the leaders in the profession often become drawn into executive positions, dealing in a large way with business affairs. Thus arises the anomalous situation in which leaders who may have passed through the professional stage of life have now evolved into business men and are conducting great corporate efforts, especially public utilities, along lines which, in the popular mind at least, are not compatible with the code of ethics which should be followed by the younger applicant for admission to the organization.

Engineering is a profession in the same sense that pure mathematics is a science, but the value of engineering to the human race is so great and so dependent upon practical application to every-day life that the profession, and the professional man if successful, becomes immersed in business relations.

GROUP ORGANIZATION AMONG ENGINEERS

The history of the organization of engineers is of interest, as illustrating the continual struggle between idealism on the one hand, which would produce a well-rounded code of ethics and, on

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the other, the practical considerations which have made such a code impossible of acceptance by all kinds of professional engineers. The first notable attempt at organization was made in the city of Boston and resulted in 1848 in what is now the oldest engineering society in the United States—the Boston Society of Civil Engineers. This association is carefully guarded in its membership; it attempts to preserve the highest possible professional standards among a type of engineers and of people readily recognized, wherever met in any part of the world, as distinctly "New England." The traditional New England conscience and thoroughness have triumphed through all the decades and have set a model for other engineering organizations, for, on examining the constitutions adopted by nearly every subsequent society, it will be seen that the phraseology of the Boston society has formed the groundwork.

Next in time was the organization in New York in 1852 of the American Society of Civil Engineers, which followed upon the excellent precedents already established. This organization has grown steadily and has adhered largely to its early standards, rigidly holding to these and in effect excluding the great body of practising engineers. It has thus forced the organization of many other rather specialized national societies, several of which have exceeded it in number of members.

It is to be noted that the Boston Society and that in New York were obliged even at that early date to use the qualifying word "civil" as separating the members not only from the military engineers but from the mechanical engineers, as well as from the engine runners, such as locomotive engineers, who in turn have formed the most powerful trade union of the country.

The tendency to restrict the use of the words "civil engineers" to a rather narrow group of men interested in bridges and other large structures, rivers and harbors, waterworks, sewage and roads, finally forced the rapidly widening groups of engineers who were interested in mechanical lines to form the American Society of Mechanical Engineers; and, because of the fashion thus set, the American Institute of Electrical Engineers then separated themselves from the other engineers. The mining men also found that the requirements for admission to the American Society of Civil Engineers were too restrictive, and they in turn formed the American Institute of Mining Engineers. The requirement for membership in the latter society was so different from that of the older American Society of Civil Engineers that for over a decade the older society refused to come under the same roof, largely because of the feeling that there was not sufficient restriction as regards professional standing in the great body of members of the society of miners.

Thus have been formed many national societies of civil engineers, as distinct from military engineers, divided by somewhat arbitrary technical lines, for the civil engineer frequently has to do with the mechanical and electrical devices or structures of the mechanical and electrical engineers, or vice-versa. These divisions have arisen largely from the divergent views as to requirements for admission to the national society. At the same time many state organizations have been formed, largely political in character in the sense that the laws of each state, differing from those of its neighbors, necessitated consideration of engineering matters, such as drainage,

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road-building, water works, and sewage, in their relation to the geographic and political entity of the state. These state societies have necessarily been organizations not of civil engineers alone but of men practising the profession of engineering. They include in their membership a large proportion of so-called practical men, surveyors and others who have picked up the work and have been educated not in engineering schools but in the "college of hard knocks."

In each of the principal cities of the United States it has also been found desirable to bring together men who practise engineering, in order to increase acquaintance and to discuss engineering problems with particular reference to local conditions. There are also in each city small groups of members of the national societies, either meeting separately or occasionally coöperating with each other and with the local society of engineers, many of whose members are frequently not eligible for membership in the national organizations.

Thus, a list of engineering societies will include a dozen or more national organizations, a score or more of state engineering societies, and a hundred organizations, one or two in each of the principal cities, each with different standards, coöperating occasionally or competing for membership.

The listing of engineering societies is complicated by the fact that there are many organizations, some incorporated, of men who as in the case of the so-called "sanitary engineers" may or may not be engineers according to the definition accepted. Some of the "sanitary engineers" are simply successful plumbers who may or may not have had an education in the theory of engineering, but who are practical business men.

NEED FOR STANDARDS OF ENGINEERING CONDUCT

The reason for the creation of standards is evident from the brief review above given. The older, more conservative societies believe that it is of the highest importance to the public and to the profession that certain standards be set up and carefully observed. Their concern is mainly for creating and preserving a certain prestige and for rigidly excluding the applicants who do not meet this standard. At the same time, internally these older organizations are continually shaken and their growth and influence often reduced by the interminable struggle between the two factions, since the conservatives are continually trying to raise the standard as against the efforts of the progressives who are looking towards the wider influence of the larger society. On the part of these liberals it is urged that every man who is making a living by the practice of engineering should become a member and, as such, be educated and impressed with high standards by contact with men within the society, and not be forced to the alternative of joining a labor union if he desires to do his part toward improving the condition of his fellow engineer.

The reasons for the creation of the "standards" are those which underlie the ideals of the closed shop which, originated by the medical profession, have been adopted in large part by the lawyers and put into still wider effect by the labor unions, who have become most apt pupils in this regard. The engineering profession, as a whole, may be said to alternate between the ideals of an open, competitive business on the one hand, and, on the other, a restricted, licensed, or registered group, such as that of the lawyers and doctors, or

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the closed shop of the labor unions, each professing to seek the highest service to humanity through raising and maintaining certain group standards.

ACTIVITIES OF CIVIL ENGINEERING SOCIETIES

Considering the members of the civil engineering profession and the group action taken by them, it is to be noted that as such they have not attempted to coöperate very widely in their activities with other bodies of engineers, such as the mechanical, the electrical, or the mining. There has been a conscious effort in most organizations of civil engineers to bring together only "the best people" and to realize the ideals of the old Greek term, "aristocracy," in its best sense. Each society of civil engineers has pursued its own way, and the largest, the American Society of Civil Engineers, has kept out of most "entangling alliances." Though persuaded at a late date to make its home on top of the Engineering Societies' Building, it has not taken such action as, in the opinion of the majority of its members, would reduce its standards to those of its neighbors on the lower floors of the building. Thus it has up to the present time kept out of the Federation of American Engineering Societies, though coöperating with some of the societies in specific matters.

In spite of this somewhat exclusive attitude, the civil engineers have entered into conferences, one of the most notable of these being the Joint Committee on a Code of Ethics for Engineers, consisting of representatives of the American Society of Civil Engineers and four other national engineering organizations. The report of the Joint Committee, together with the proposed code, is included elsewhere in this volume.[4]

[4] *See* Article by Mr. Christie, page 101.

As regards publications, there has been practically no coöperation among the civil engineering societies, but each has issued its own annual or periodical literature, differing in general style and presentation from that of other similar bodies.

GENERAL TYPE OF CIVIL ENGINEERING SOCIETIES

While there are a considerable number of civil engineering societies such as those mentioned, the Boston, the American, the Canadian, and others, national, state and city, there is a similarity in their type and activities, since, as above indicated, each in turn has been patterned largely upon the predecessors.

The standards for admission to membership in the civil engineering societies as such have usually been considered somewhat more restrictive than those for admission to other engineering societies, following in this respect the standard set by the Boston Society and the larger American. Many professional engineers, looking back over the history of the profession, regard this attempt at creating and maintaining a high but rather narrow standard as one of the misfortunes of the profession, as it would have been possible, a few decades ago, to have brought in and kept in one great national society, all of the engineers, mechanical, electrical, mining, chemical, etc., thus having a body which in strength and influence would have been comparable with the American Bar Association.

Divided, however, as are the engineers in these many specialized or technical societies, they, as a group, exercise a minimum of influence in public affairs. It may be said that until the mining engineer, Herbert Hoover, with his remarkable personality, came to the front, the engineer as

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such was little known or regarded in public affairs. He had been considered as the "hired man," and almost never served as a leader in commissions or on other public bodies. This condition is traceable in part to the fact that the engineers, following the standards which they have set, have not made their strength felt in the large affairs of the state and nation.

FINANCIAL SUPPORT

All civil engineering societies are supported by annual membership dues, these being employed in large part in payment of the salary of a secretary and in the cost of correspondence and publication. A few of the older societies have accumulated a substantial sinking fund, while other civil engineering bodies are adopting the principle of reinvesting the money for the benefit of the existing membership and getting the largest immediate return possible from such investment in current activities.

Compared to those obtained by some of the other professions, the ordinary fees or compensation received by the civil engineers are quite low, and this situation is reflected in the amount of money available for current expenses by the civil engineering organizations. Few, if any, attempts have been made by the civil engineers as such to examine thoroughly the question of compensation, and it has been largely because of this apparent indifference to the fundamentals of individual welfare that a large number of the younger men, who might have been interested in the civil engineering societies, have found an outlet for their energies and an opportunity for helping each other through joining the more progressive American Association of Engineers.

The annual dues of the American Society of Civil Engineers are $20; those of the American Association of Engineers, $15, and of most of the state or city societies, $10 or less. The number of members in the American Society is over 9,000, and the American Association of Engineers, composed largely of civils, has over 22,000, while in other organizations of civil engineers, the membership is usually below 500. For these dues the members receive an annual report or periodicals, supported in part by advertising.

ENFORCEMENT OF STANDARDS

As a rule, there have been relatively few attempts to protect the standards of practice in the engineering profession. In fact, the safeguarding of the profession is confined as a rule to the examination of the credentials of the applicant. Once admitted, the case must be extremely flagrant before any action will be taken by the organization. In this respect the condition is similar to that of the older professions where the guild or class distinctions and "professional etiquette" prevent criticism of a fellow member. There have been cases where the derelictions of a member have been considered in executive session by the governing bodies, and presumably warnings have been issued, but these cases are usually carefully guarded, not only from discussion by the public but from the members of the society, themselves.

The usual procedure for dealing with those who violate accepted practice is for the matter to be brought before the governing body and referred to a select committee with a view to going into the details, the whole procedure being highly confidential in its nature and the final decision unknown outside of the small group involved. This has had its good and bad effect; good, in protect-

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ing the engineer from unfair criticism, and bad, in creating a feeling that the members of the profession are indifferent to practices which apparently have grown up without restraint.

The American Association of Engineers, appreciating this condition, has attempted to handle these cases in such a way that the members and the public in general are informed concerning the results and are thus made aware of the fact that improper practices will not be condoned.

The only penalty which may be enforced by a civil engineering society, for violation of its standards, is expulsion from the society, this being largely a matter not made public. The assumption is that no man who has been admitted would be guilty of improper practice after the careful scrutiny given in advance, and that should he fail to live up to the standards, the fact of dismissal from the society should be adequate punishment.

THE CIVIL ENGINEER AND PUBLIC WELFARE

The civil engineers with their ultra-conservatism have largely refrained from taking part in public affairs, and have not been conspicuous in initiating legislation or regulations for the protection of the public, such, for example, as have characterized the medical profession. It is true that individual members have been prominent in various reforms having to do with better water supply and sewage systems, better roads and bridges, but, as a body, the civil engineers have kept away from active participation in public affairs. In this respect they have not exercised the influence which a group of highly-trained and experienced men should have had.

In a similar way the civil engineers have been extremely cautious in taking any action which might be construed as sustaining or "backing up" the members of the profession in the individual efforts toward improvement of social, economic, or political relations. Many an able civil engineer has been dismissed from public position, or has been severely criticised, without any outward support from the organization to which he belongs. In fact, the caution displayed has been criticised as bordering upon timidity. In this respect, the civil engineers, as a group, do not appear to have a strength in sustaining sound public opinion at all comparable to that of other groups of engineers or to doctors and lawyers.

From what has been stated before, it appears that, in outward appearance at least, the civil engineers, while individually setting a high standard for themselves, have, as group organizations, not been leaders, nor have they developed the ideals of leadership among the younger men. This is undoubtedly due to the type of education which has tended in the past to emphasize in the mind of the young engineer the ideals of modesty and self-effacement, to "let the work speak for itself" and not to put himself forward in expressing opinions. This is in striking contrast to the attitude presented to the young lawyer, who from the outset is instructed as to his duties, as a man and a citizen, to use his best efforts, not only before the courts but in every public meeting; to help in discussion and to take the leadership which is due to the educational advantages which he has had. He is impressed with the fact that since the public has directly or indirectly contributed to his education, he has a duty in turn to the public to take an interest in its affairs.

The young engineer, on the contrary, impressed with the necessity of accuracy and thoroughness and with the importance of a caution which will

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provide a large factor of safety, is inclined to let public affairs take their course until such time as he may be called upon to assist the men who have become practically the self-constituted leaders of affairs.

The greatest need among civil engineers as a group is to correct this false modesty, and, while maintaining a high standard of professional attainment, couple this with the true conception of the duty of an educated man—never to hold back at times when he can be of service to the public.

EMPLOYMENT

In the matter of employment the civil engineers, as distinguished from other professional engineers, have tended to lag behind. In fact, one of the strongest criticisms against the civil engineering societies has been their neglect of this whole problem of the welfare of the young men entering the profession, both in the matter of compensation and of employment. The ideals taught in the schools have been largely those of devotion to the work, such as would make it quite improper for the young civil engineer for many years to give consideration to his compensation or personal comfort. In fact, it has been rather a source of pride, that in the construction camps, in survey parties, and elsewhere, the engineer has worked the longest hours, endured the greatest hardship, and has received a pay less than that of the skilled workman or mechanic.

It has been regarded as unprofessional to consider rates of pay, especially for the lower positions in the ranks of civil engineers, and much criticism was showered upon the American Association of Engineers because it did discuss the proper rates of compensation for the men entering upon the civil engineering profession, such as draftsmen, rodmen and instrumentmen. It was urged that such action flavored too much of labor unionism.

In the same way, consideration of methods of securing employment was under the ban for many years, and while some of the higher members of the profession who had reached the grade of consulting engineers were ready to discuss proper fees and rates of pay, these men as employing engineers were not at all keen in considering the claims of the great mass of younger men from whom their ranks would ultimately be recruited. It may be said that until the American Association of Engineers led the way in the development of an employment service, the principal groups of civil engineers did not look upon this with much favor.

In short, in studying the code of ethics of the civil engineers, the impression is strong that this has been considered largely with reference to the relatively few men who stand near the head of the profession, and has not taken into view the great body of younger men, recently graduated from college, who have the greatest needs, not only as regards practice but also as regards their inexperience in the profession. For this great body, who form the rank and file of civil engineers and who furnish the greater part of the finances of the organizations, there is a special need of a code of ethics and of specific application of such a code, in order that they may properly pursue a middle course, avoiding, on the one hand, the selfish practices which are attributed to some of the labor unions, and, on the other hand, the extremes of an over-sensitive conscience or timidity which has kept the civil engineers out of the larger affairs of daily life.

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Ethics of the Electrical Engineer

By CARL HERING, D.Sc.
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PROFESSIONAL engineers deal primarily with the forces of nature and are, therefore, governed in their work by the laws of nature; as mother nature demands and insists upon absolute obedience to her laws from which there is no appeal and which cannot be circumvented, the engineer is, by the very nature of his profession, brought up to respect and obey the laws which are fundamental to his work. Any violation of these laws is certain to bring its own punishment with it, even without a trial, either in showing the ignorance and therefore unfitness of the violator, or, what is worse, the deliberate practice of what he knew was wrong. Moreover, many human lives are often at stake when an engineering structure fails; hence the engineer realizes that his responsibility in many cases is very great.

As has often been said by way of comparison, the physician can bury his mistakes six feet under the ground, the lawyer can pass the blame to the jury, court, or witnesses, and the minister can often find a quotation from the Bible which, taken literally, may seem to uphold him in a mistake he may have made; but when the engineer makes a mistake or violates the laws which are fundamental to his profession, he cannot hide the blame or pass it to others. Since, then, there is generally no question who is responsible, and no escape from censure, he must be doubly sure of what he does and how he does it. His profession is therefore by its very nature on a high plane, as far as it concerns obedience to the laws of nature, a thorough knowledge of his branch of learning, which involves a higher education extending over many years, conscientiousness, and regard for the effect of his work on others.

Training in such an atmosphere cannot fail to have an important bearing on the ethics of engineering conduct; the records of the professional lives of many noted engineers bear this out, as does also the ruination, professionally as engineers, of those who have violated the principles of a high code of ethics. "The engineer's intellectual relations with his subject involve a contact with nature and her laws that breeds straight thinking and directness of character and for these the world is constantly according him a higher and more honorable place." [1]

ENGINEERING AS A PROFESSION

That engineering is recognized as one of the so-called "learned professions" and as such is in a class with the medical, legal and other professions, is probably now generally conceded, at least when the nature of the work is limited to true engineering as distinguished from commercial work, and is based on high educational qualifications acquired at a college of good standing, supplemented by years of experience and training and the intelligent application of such knowledge. The requirements in educational qualifications and training are quite as great, if not greater than for some of the other professions. But to the mind of the public, unfortunately, the term "engineer" often means the mechanic who operates a locomotive or some other form of engine.

The preceding statements apply to the profession of engineering in general,

[1] (Gano Dunn.)

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embracing four main divisions, electrical, mechanical, civil and mining, with many sub-divisions. Though the particular codes of ethics of the various branches may differ somewhat, owing to the differences in the nature of the work, in general they are based on the leading, centuries-old principle, "Do unto others as you would be done by," and not on that modern version of it, used by some business men, "Do others or they will do you."

The "Code of Principles of Professional Conduct" adopted by the American Institute of Electrical Engineers is published elsewhere in this volume.[2] The present article will be limited to replies to some of the questions which the author has been asked, concerning his profession.

The American Institute of Electrical Engineers, organized in 1884 and having a membership of between 12,000 and 13,000, is the only large, national society of electrical engineers, including in its membership all the leading men of this division of the engineering profession. It may be said to be the law-making organization of this division, and its high motives may be relied upon. It is supported by membership dues and has three grades of members, of which the much coveted highest grade, that of fellow, is restricted to those who have certain high qualifications. Young men have easy access to associate membership; for the advancement to full membership definite requirements are necessary, referring chiefly to the applicant's record and to the reputation he has gained by his work in the past. There are many other societies and organizations dealing with special branches and they may have their own code of ethics, but this is the senior or parent institution for the electrical engineering profession.

[2] *See* Appendix, page 274.

That its members have respect for high principles of proper professional conduct is indicated by the fact that no member has ever yet been expelled, though in one case a member whose conduct was being investigated by the Committee on Professional Conduct, resigned before the case was concluded, and his resignation was promptly accepted. A small number of other cases have been considered by this Committee from time to time. At present a recommendation is under consideration that a brief statement of such cases and the actions taken be published in the monthly publication of the Institute, without giving any names.

The clause in the constitution governing the subject of expulsion is as follows:

Sec. 15. Upon the written request of ten or more Fellows, Members or Associates that, for cause stated therein, a Fellow, Member or Associate of the Institute be expelled, the Board of Directors shall consider the matter, and if there appears to be sufficient reason, shall advise the accused of the charges against him. He shall then have the right to present a written defence, and to appear in person or by duly authorized representative before a meeting of the Board of Directors, of which meeting he shall receive notice at least twenty days in advance. Not less than two months after such meeting, the Board of Directors shall finally consider the case, and if in the opinion of the Board of Directors a satisfactory defence has not been made, and the accused member has not in the meantime tendered his resignation, he shall be expelled.

THE NEED FOR PRINCIPLES OF ENGINEERING CONDUCT

From the nature of the different engineering branches, differences arise which have some bearing on professional conduct. Under the broad term of electrical engineers, there are included salesmen, contractors, manu-

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facturers, administrators, organizers, financiers, promoters, etc., many of whom may have started as college-bred engineers, but have branched off into these other vocations, for which they were often very well fitted by reason of their engineering training. Their interests are, however, sometimes directly opposed. To manufacturers and those entrusted with the selling of a product or project, "the exigencies of selling are so constantly forced upon them, that it produces in their circles a commercial atmosphere quite at variance with strict professional views," to quote from a leading engineering journal. Technical journals themselves may not always be free from the influence of their advertisers. Another technical journal last year said editorially, "It is to be hoped that the year 1921 will see real progress in the establishment of codes of ethics in the various engineering societies, or, better, the establishment of general fundamental principles of engineering ethics on which the individual societies may build." Still another technical journal asks, "Is engineering a profession or a business?" and implies that it must be one or the other, stating that "we are at the parting of the ways." This distinction refers to the modern large organizations, as distinguished from the individual engineer, in conducting engineering work; it implies the old saying that "corporations have no souls." The differences between the ethics of such large organizations and of the individual engineer is a subject of discussion which space does not permit going into here.

Within the near past, another departure of a somewhat psychological nature has been added to the engineering profession, that of the science of dealing with men, as exemplified in the legend in the great National Engineering Library in New York City, which states as a conception of engineering: "Engineering—the art of organizing and directing men, and of controlling the forces and materials of nature for the benefit of the human race." The last part of this legend was formerly one of the definitions of an engineer; the former clause has more recently been added, though not by unanimous consent. In the opinion of some, the term engineering is being broadened too far.

It is often difficult to draw sharp lines between the many different practices, as to where true engineering begins and ends. The title of "engineer" is a coveted one, and rightly so, as long as it implies a long and difficult course of education and training, and it is therefore natural that its appropriation is broadening. A code of ethics is naturally a different matter for one who deals with the application of nature's laws of matter and energy for the benefit of mankind, than for one who deals merely with getting the largest number of dollars; though of course the true engineer must of necessity also consider the cost of projects. For the purposes of the present article, however, the term professional engineer may be supposed to apply to those who occupy themselves exclusively with the true profession of engineering, in its older sense of applying the laws of matter and energy to the benefit of mankind by the design, construction and use of engineering structures. The statement of Francis Bacon in the preface to his "Maxims of the Law" applies to professional engineers as well: "I hold every man a debtor to his profession, from the which as men of course do seek to receive contenance and profit, so ought they of duty to endeavor themselves by way of amends to be a help and ornament thereunto."

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THE ENGINEER AND PUBLIC SERVICE

As the progress of the world, the comforts of man and his ability to produce, are so very largely due to the work of the engineer, his work is of the very greatest importance; he therefore naturally interests himself also in the public welfare in behalf of which he should "be ready to apply his special knowledge, skill and training for the use and benefit of mankind," and with loyalty to his country, evidence of which was shown in the recent War, which, to a greater extent than ever before, was dependent on the skill of the engineer.

In connection with testimony by engineers in legal cases, a clause in one of the engineering codes says: "To render reports or testimony intended to deceive is highly unprofessional," a maxim which contrasts with the guiding principle of some lawyers: "Win the case; win it honestly if you can, but win it."

The engineer's work is often connected with some form of public service and he is therefore concerned with the public and with public welfare. His obligations to serve the public conscientiously to the best of his abilities are thereby instilled into him; his natural repugnance to act against the interest of the public, or of those in his charge, when urged to do so by his less scrupulous superior officer, perhaps a politician, a contractor or a financier, has cost many an engineer his position.

Untiring efforts are made by those of experience in the profession to advance the standards of education and training of the rising generation of engineers in the schools and colleges; the subject is frequently discussed at the sessions of the American Institute of Electrical Engineers between those who know what is needed in actual practice and those who do the teaching and training; both willingly coöperate to the great advantage of the student.

Any special recruiting for the profession of electrical engineering seems hardly necessary, as the great interest taken by many young men in this branch of engineering seems to be sufficient.

An employment service is conducted by the Institute; in general, any form of service pertaining to electrical engineering, either to its members, the profession, the public, or the government, which is of such a nature that it can best be done by this large national organization, including in its membership all the leading electrical engineers of the country and many in foreign countries, is willingly undertaken and intelligently carried out. In many instances, the Institute has set an example to others.

Procedure in Developing Ethical Standards Adopted by the American Association of Engineers

By H. W. CLAUSEN

Treasurer of the American Association of Engineers; Chairman, Practice Committee, American Association of Engineers

THE maintenance of the proper ethical relations of the professional engineer both with the public and with his fellow engineers is becoming of great importance in the effort to develop the service of the engineer to its maximum of usefulness. Clearly, one of the essentials to a constructive and vigorous policy leading to the harmonious coöperation of all concerned,

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is a definite standard or code of ethics, adherence to which can be relied upon to build up the mutual confidence vital to successful professional service under the complex conditions existing today.

The necessity for a comprehensive code of ethics has been quite generally recognized by the leading engineers of the country and much has already been accomplished in crystallizing professional opinion in regard to the many phases of the subject. A significant forward step has been made by a group of engineers in the formation of the American Association of Engineers. Although many reasons prompted the creation of this association, it may be said that the desire on the part of its organizers for definite machinery capable of adequately and promptly handling the various problems relating to the ethics of the engineering profession was the principal thought in mind. Effective bodies have long been in existence to deal with the technical side of engineering service and in the course of their work much has also been done to advance the standard of practice from an ethical standpoint as well. It was thought, however, that the establishment of the American Association of Engineers would be helpful in providing a means for determining a general code of ethics and in interpreting that code in specific problems of everyday practice; and that, further, it would provide a prompt means of taking disciplinary action in the enforcement of penalties for violations of the standards set up to govern practice, wherever such action would be in the interest of the public welfare.

REASONS FOR A WRITTEN CODE

It may be said with some justification that the standards of good citizenship and of honest dealing form a sufficiently exact body of principles for the great majority of the engineering profession, and that for such men as make up this majority anything further is superfluous and unnecessary. Certainly engineers, although belonging to what is commonly felt to be one of the newer professions, have demonstrated and are now showing as high a conception of honorable and upright public service as any of the older professional groups. But the acceptance of a practical code of ethics by the members of a profession is a declaration of their faith for all the world to know and there are times when recourse to this written standard would serve as a helpful guide, as does the chart to the navigator.

This is especially true of the younger men in the profession who are naturally students of precedent and who are anxious to guide their practice in strict conformance with established principles. Moreover, it would be untrue to say that there are no departures from the highest ethical standards on the part of engineers. Here and there are examples of deliberate unprofessional conduct injurious to the public welfare and to the engineering profession. Disciplinary action in such cases would, if properly taken, do much to raise the profession of engineering in the public mind and would react favorably upon those engineers whose practice is founded upon truth, honesty and duty.

An army without the necessary discipline thoroughly to control its members often suffers immeasurably from the action or lack of action, as the case may be, of a few irresponsible individuals whose conceptions of duty are warped by selfishness and whose aims are remote from those dictated by the principles of service to a higher cause.

The first step in the work of the American Association of Engineers, then, was the development of a written code of ethics, a statute, as it were, which would be generally regarded as correct

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and enforceable. With a view to making the first draft of this code a clear-cut unequivocal statement of high principles, the responsibility for writing it was placed upon an individual. Isham Randolph, now deceased, an engineer of outstanding character and integrity, was selected and he wrote the code which is printed in full on page 277. It has attracted wide attention and favorable comment as being an assembly of principles recognizing the importance of enlightened self-interest on the part of the individual engineer and yet broadly emphasizing the responsibility of the engineer to his client and the public.

It is an exceedingly difficult task to draw up a code which will in a single document provide adequate expression for the ideals of the profession and at the same time set forth detailed rules of conduct. It seemed necessary, therefore, for the Association to appoint a Practice Committee, the duty of which is to interpret the code of ethics for every-day use. This interpretation is done by the consideration of particular cases and problems in a broad and general manner, with names, locations, etc., omitted, and decisions are then arrived at, based upon the specific facts given. The decisions of this Practice Committee are next referred to the National Board of Directors as recommendations. If approved, they are published and act as precedents for professional conduct under similar circumstances. These decisions may be roughly compared to court decisions in common law.

To provide for any appeals which may be made from Practice Committee decisions, a judiciary committee will be formed which will have disciplinary power for the enforcing of penalties upon violators of the code of ethics or of decisions of the Practice Committee.

As an example of the problems considered by the Practice Committee the following cases which have been passed upon and approved may be of interest:

Case 15

A firm of engineers by name of A, located at B in state C, advertise and sell their services as consulting engineers. They are also manufacturers' representatives for several of the largest manufacturers in the United States. Among others they act as consulting engineers for the city of B and on work which they recommend and on which they write specifications. They also give prices to contractors and bid on the machinery.

Question.—Is it ethical for A to sell their services as consulting engineers to the city of B and also, acting in the capacity of sales engineers or manufacturers' representatives, to furnish prices on the commodities that they sell to contractors bidding on the work of city B when A makes a recommendation of award?

Answer.—Generally, no. There might be a peculiar combination of circumstances where this might be correct, but never should it be undertaken without the fullest of publicity and then only in cases where the public interest demands it.

Question.—In the above, would the situation be altered if A made a direct bid to city B for the required commodities or machinery?

Answer.—Generally, no. Exception under conditions mentioned above.

Question.—As a general policy is it ethical for engineers to design work or write specifications for clients and also have an interest, direct or indirect, in the materials, equipment or other things going into the construction work of the clients?

Answer.—As a general policy it is not ethical for engineers to have an interest direct or indirect in the materials, equipment, etc. going into the construction work of their clients except that the clients be advised in advance of the nature of the interest of the engineer and sanction of the client be obtained.

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Case 16

A is engineer for a county and receives his pay in fees for the design and supervision of engineering structures let by the county under contract to builders. Another engineer, B, proposes an alternate solution for one of A's problems, engineer B to receive his compensation from the builder who submits B's plan as an alternate. The statutes of the state provide for this method. The compensation for A is the same whichever plan is used, and the alternate structure must ultimately have the approval of A.

Question.—Is it unprofessional or unethical for engineer B to propose an alternate solution through a bidder?

Answer.—No.

In the above question, suppose engineer A opposes the alternate plan and charges B with unethical practice.

Question.—If the practice is held to be ethical, then is engineer A unprofessional when he charges engineer B with unprofessional practice?

Answer.—Yes, if B's proposition is made in good faith for the public benefit; however, A should not be considered unethical for an honest expression of opinion, so long as it was courteously stated.

Engineer A and engineer B each prepare alternate plans for contractors to submit bid at a letting. The owner then employs engineer C to determine which of the two is the better solution. Engineer C condemns both and seeks employment to redesign the structure himself, thus eliminating both of the engineers, A and B.

Question.—Is the practice of engineer C ethical?

Answer.—It is a question of intent. If A's and B's plans were faulty or unduly expensive to build, it would be the duty of C to so report. He should, however, not seek the work for himself. In the event that the owner desires C's services, it would not be unethical for C to undertake the work, preferably having A and B satisfied as to his conduct in the matter.

The report of the Practice Committee of the American Association of Engineers made at the last annual convention in 1921 brings out interesting points concerning the actual method of procedure.

Cases coming before the Practice Committee seem readily to fall into two general classes. The first class includes those of a general character involving questions of ethics and professional practices concerning which there is no dispute as to the facts but only as to whether the acts or practices in any given case are in accordance with the adopted code of ethics of our profession and society. In a certain sense, the decisions of the Practice Committee as approved by the Board of Directors in such cases, becomes the common law in engineering practice, the same as the decisions of our civil courts do in every-day life. These decisions are subject to change from time to time as engineering opinion becomes more and more crystallized resulting from experience and investigation. They are of prime importance because they are written and can be referred to from time to time.

The second class comprises those cases concerning which there is no agreement as to the facts but on the contrary a decided disagreement as to same. Naturally from such a state of affairs a controversy can develop which may be far-reaching as to its effects on the welfare of individual engineers, the profession, and the good will of the public. Such cases usually involve considerable personal feeling and unless properly decided will result in great injury.

Cases of the second class require careful handling and should not be decided except after a thorough examination of all facts and circumstances surrounding the controversy. In some of these controversies an investigation or open hearing should be held to which all parties interested in the controversy, including the witnesses, should be invited to attend. Plaintiff and defendant should each have a counsel or aid which should be an engineer, not an attorney, and the proceedings should be carried on according to the legal rules of evidence and written record of such rules. Obviously

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the reason for this is only to bring out clearly the facts and reduce the written record of the court reporter to a minimum. All witnesses whose testimony is to be considered competent should be required to submit to voluntary oath. It should be the duty of the Chairman of the Practice Committee, or if he is unable to serve, another member of this committee designated by him, to conduct such a hearing and in regular course of routine to render a written decision setting forth the charges made, the facts brought out, and the findings.

The appeal from such a decision should not, in the opinion of your Chairman, be to the Board of Directors. The size of the Board and requirements of time and attendance in person at the meetings make it practically impossible to acquaint the Board members with all the evidence in detail. Such a body, already busy with matters of the highest importance as regards our association, would necessarily as a matter of routine have to approve a decision made by the Chairman of the Practice Committee because they, in the very nature of things, could not each and all have the intimate acquaintance with the facts necessary to insure an independent decision.

In the opinion of your Chairman, the appeal from the decision of the Practice Committee in cases of this character should be to a higher tribunal, known as the Judicial Committee, to consist of not more than three members qualified and appointed as recommended by your Committee on Revision of the Constitution. This committee should have the power to enforce its own decisions and those of the Practice Committee by the expulsion of the transgressing member without recourse to a higher authority. Such a court would insure a proper and thorough consideration of all the facts in any given case and its work would react to the benefit of the profession as a whole.

Last year, attention was called to the desirability of giving particular attention to the engineer in public service. Evidently because of insufficient publicity our members are not familiar with the resolutions passed by the last convention relative to the proper conduct of an engineer in public service when confronted with conditions not conducive to the public welfare. At least only one case was brought to the attention of National Headquarters, which was disposed of promptly. Engineers in public service hold a tremendous potentiality for good or evil practice so far as public welfare is concerned. If the collective conscience of engineers would only grasp the opportunity for real public service, some considerable progress in public esteem and confidence would result to the profession generally and worthy engineers individually. To do this the profession must clean house and our society should be the leader in showing the way. Wherever opportunity affords, a member, guilty of accepting a public engineering position of responsibility without possessing the requisite experience, knowledge, skill or ability to properly fulfill the office, should be advised thereof and show cause why a resignation would not be in order. Similarly, when there is evidence that such a position has been given to the recipient because of his willingness to "take orders" from unscrupulous politicians contrary to sound public policy.

The great city of Chicago and state of Illinois are not controlled by the same faction of a political party. The public press publishes reports concerning the gradual undermining and abolition of efficient engineering departments and bureaus and the replacement thereof with political henchmen, resulting in a great loss to the public and injury to old, experienced and efficient engineering employes. In the interest of the individual engineers injured by this process, the profession generally and the public good, the truth or falsity of such charges should be verified and therefore the following resolution is offered for your consideration:

Resolved, That the various chapters of the American Association of Engineers in the state of Illinois, independently or collectively as they may elect, investigate in a thorough and painstaking manner the status of the practice of engineering in that state and political subdivision thereof. The Board of Directors are instructed to afford assistance and guidance if requested by

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the various chapters and the various chapters are required to make progress reports each three months to the Board of Directors so that a full and comprehensive report will be ready for the next annual convention for its consideration. The President is directed to use the influence of his office to the end that such investigation is promptly begun and diligently prosecuted and results of such investigation given proper publicity for the common interest of the profession and public.

During the year six formal cases, Nos. 13, 14, 15, 16, 17 and 19, were considered by your committee and approved by the Board of Directors and published in the *Professional Engineer* in accordance with our Constitution and By-Laws. Case No. 18 was handled by your Chairman alone and finally disposed of by your Board, but as yet has not been published. Besides the above a considerable number of cases, not of general interest, were handled by your Chairman informally.

Obviously the problem facing the Association is a large one, and its work is beset with difficulties of many kinds. The danger of injustice to individuals is ever present, but the guiding principle of service, honest service based upon truth, can, in the hands of farsighted forceful men, be relied upon to lead on to a better understanding and to a sound conception of the duty of the engineer whether in public or in private practice.

Shall Corporations Be Authorized to Practise Engineering?

By WILLIAM J. WILGUS
Consulting Engineer, New York City

SHOULD a corporation practise engineering? The layman will perhaps at first thought reply in the affirmative, always with the provision, however, that the engineering service so rendered conforms with the best professional standards of practice; and yet the question is by no means so easily answered when considered from all sides and especially from the point of view of public expediency.

Is it not generally recognized that a corporation is organized and administered primarily for gain? We are not here speaking of that class of corporations which serve a philanthropic or charitable cause, but of the every-day business corporation, aggressively "on the make" as it were, and reaching out vigorously to increase its power and earning capacity. All such corporations of this latter class as are ably administered, strive to perform some economically useful service. Those wholly or partly engaged in engineering doubtless endeavor to furnish their clients or customers with engineering advice and skill consistent with the highest standards of the engineering profession. But considering the very nature of the corporation, is it possible to accomplish this purpose?

May we not draw this comparison between the purposes of a corporation and those of a profession? On the one hand, a profession is commonly regarded as, and may be defined as, a vocation having to do with the instructing, guiding and advising of others, or with serving them in some art, calling, vocation, or employment within the limitations not only of law but also of rules or standards known as a code of ethics. On the other hand, a typical engineering corporation is organized, and its work carried on, for the purpose

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of monetary gain. It functions, of course, within the limits proscribed by law but it is not a subscriber, speaking broadly, to any code of ethics, professional or otherwise. It acts as a corporate entity, and the liability of its individual owners is strictly limited. In a sense, it is an instrument, often with large financial responsibility, but without soul. Its policies are of necessity those dictated by expediency from its own self-interested standpoints; its object, dividends, and these as large as is consistent with sound commercial policy. It has been well said that "business has gain as its principal aim while a profession has service as its lode-star, with gain as a by-product."

THE CONFLICT OF INTERESTS

An engineer retained by his client occupies the same relative position as the lawyer or doctor. His client's interests are his interests in so far as they are compatible with truth, ethics and scientific knowledge. His work is the solution of the engineering problems of the undertaking in such manner as to provide for his client, engineering skill, unbiased by self-interest and free from any outside influence or pressure which could be detrimental to his client.

Not so the corporation, with an engineering staff, highly skilled though it may be, financed by bankers and perhaps influenced and even controlled by manufacturers. Here we have many interests and often those of the engineering staff, ordinarily supposed to represent the client, that is to say, the public, are sadly subordinate. The manufacturers believe their products to be the best obtainable for the purposes of the "client." Why, then, should not the engineers which the corporation employs be requested to specify them? When we consider the position of the individuals composing the engineering staff of such a company we recognize at once the fact that there are two masters to be served. Is it remarkable that the interests of the client inevitably suffer under such conditions?

In view of the arguments thus far presented it seems fair to assume that no group of non-engineers can hope, under the guise of an engineering corporation, to offer engineering services without at least arousing suspicion as to their real purposes. It is emphatically not in the public interest for a corporation ostensibly to pose as a professional body when its allied or collateral interests are such as to influence its engineering judgment. Engineers with a full appreciation of the ethics of their profession, resent undue influence exerted upon them which will in any way hamper their freedom of action or of thought. It is therefore difficult to see how these engineering corporations are to provide themselves with the highest grade of engineering talent, or, indeed, with any engineers at all, except those who are willing to subject themselves and their work to the suspicion of improper influence on the part of their employers.

The following quotation from a letter addressed to the Governor of New York by a committee of leading engineers forcefully presents arguments against the licensing of corporations for the practice of engineering.

> What is viewed by us with alarm is the sanctioning of a condition under which an engineering corporation may have bankers, manufacturers and contractors on its board who may so dominate its policy as to influence its management, including its engineering employes, in the preparation of reports, plans, contracts and specifications and in the supervision of work, in such manner as to favor the outside interests of such directors to the injury of the client (the public). This is no idle fear. In the case of common carriers this practice of interlocking directorates is forbidden by law.

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The professional engineer in the employ of an engineering corporation or unrestricted partnership, made up in whole or part of non-engineers, is relegated to a position of anonymity or that of the servant, relieving him of all professional responsibility to the client and placing him under the direction of those whose primary interest is a banker's or contractor's profit.

The professional engineer who signs a report or an engineering plan or specification is personally responsible. The engineer who works for an engineering corporation controlled by bankers or contractors is responsible only to the corporation upon which no equivalent responsibility is imposed by the State.

In a word, the engineering corporation, by which the engineer is employed or with which he is associated, is responsible only in a legal sense, and cannot be held for violations of a code of ethics to which it is not a subscriber.

The interposition of the impersonal corporation between the client and the professional engineer frees the latter from the responsibility for the unprofessional acts of his employer.

Corporations are free blatantly to advertise and to solicit patronage, while independent engineers are restrained from doing so either by good taste or by professional ethics. In fact there are well-known instances of practices by engineering corporations and unrestricted partnerships which are in direct violation of the professional ethics to which some of their officers or members in their individual capacities have subscribed. This is unfair to the independent engineer and destructive of that high respect for the profession which is of public concern.

It has been said that the public interest will be best promoted by recognizing by law the right of corporations to practice the profession of engineering, because the tendency of the times is in the direction of the performance of work by corporate aggregations of capital and brains not feasible in the case of the individual or independent engineer. This may perhaps be effectively answered by pointing to recent work of great magnitude performed under the direction of independent engineers, as follows:

1. Barge and ship canals, including terminals.
2. Catskill Water Supply.
3. Subway system of the City of New York.
4. Great tunnels and bridges.
5. Great railway terminals, including the Grand Central and Pennsylvania Railroad New York terminals.
6. Electrification of steam railroads, including the New York Central, Pennsylvania and Long Island railroads, with their collateral improvements.
7. Rehabilitation of great trunk lines for heavy motive power.
8. Vast system of highway improvements.
9. Port, railroad and other construction required for our Army at home and abroad.

A further answer to this statement lies in recent disclosures in the business world. Certainly it is not in the public interest to favor the interposition of ethicless-business between the professional engineer and the public.

It would be clearly wrong to restrict or hinder the employment in a professional capacity of engineers by corporations, but it is certainly not in accordance with engineering ethics for these corporations to offer the services of their employed engineers to the public; nor is it for the public good. The corporation composed entirely of engineers, all adhering to the recognized standards of professional ethics and without "entangling alliances," may be able to render effective service. There seems to be no adequate grounds, however, for the incorporation of such a body of engineers and there are strong reasons against it, chief of which, perhaps, is the suspicion rightly or wrongly attached by the public to any corporate body posing as professional and professing its allegiance to professional ideals.

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A Proposed Code of Ethics for All Engineers

By A. G. CHRISTIE

Professor of Mechanical Engineering, Johns Hopkins University, and Chairman of the Joint Committee on Ethics of American Engineering Societies

ENGINEERING is slowly establishing itself as a profession. Some people question whether it is a true profession or a business. Let us note how a profession is defined and then we can determine at once whether the term "profession" applies to engineering.

A professional man must have obtained some preliminary attainments in special knowledge and some measure of learning, as distinguished from the mere skill that comes from experience as an administrator or as a mechanic. He must also apply such knowledge in practical dealings with the affairs of others, rather than in mere study or investigation for his own purposes. A professional career implies a sense of public responsibility for the accomplishment of certain social objectives. In other words, the professional man must be ready to render public service where his special training and experience makes him particularly fitted to do the work. Finally, he must adhere to the code of ethics of his particular profession, which should be so well known by the public that they understand what to expect of that particular class of professional men.

The engineer is being called upon more and more to render public service. He possesses special knowledge of his particular branch, which he applies practically in advising others or in serving their interests or welfare in the practice of the art of engineering. It is quite logical, therefore, to conclude that engineering can be ranked among the professions, together with law and medicine. It is secondary that, up to the present time, engineering has not had a common code of ethics well known to the public at large, although individual societies have had their own codes.

NO ESTABLISHED CODE OF ETHICS AMONG ENGINEERS

The profession of medicine has had an ethical code since the days of Hippocrates and possibly even earlier. As law courts developed, custom and usage established certain requirements of an ethical character to be fulfilled by those who practised in the courts as lawyers and by those who administered the law as judges. The ethical standards of these two professions have been slowly developed throughout the centuries, until now both have well defined and very complete codes, covering all the usual contingencies that may occur in professional practice. These respective codes serve to maintain the dignity of profession and its high regard by the general public because they are accepted by most doctors and lawyers, and are carefully administered.

Engineering, on the other hand, is a relatively young profession. True, there were military and civil engineers in the old days and many of the instruments still in use were first developed by the ancients. However, the great inventions about the middle of the eighteenth century and the industrial development that followed during the early part of the nineteenth century, turned men's minds from philosophy towards the study of science and its applications to the uses and conveniences of man. New branches of engineering developed as the art broadened, until there were at least three well-recognized branches of the profession, viz., civil, mining and mechanical

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engineering. Afterwards electrical, chemical, metallurgical, sanitary, automotive and many other branches of engineering came into existence.

In the early days there were no technical schools or universities to train men for engineering. The young engineer secured his training by years of apprenticeship under one of the older men or else he applied himself mentally and physically to some particular problem until he became a master of it, and thus became leader in his particular line of endeavor. This was the case of the late John Fritz, one of America's pioneers in steel production. Later on, colleges of engineering were founded. While many leading engineers of the present day have not had the benefit of a college education, they have, by their own personal efforts and achievements, well earned for themselves the right to be considered members of the engineering profession. The diversity of the engineering profession and the various methods by which one may train himself to be an engineer, are the main factors that differentiate engineering from the professions of law and medicine and make it extremely difficult to formulate any legal regulations concerning who may call themselves engineers.

In law and medicine all who enter the profession must pursue certain definite courses of study and must demonstrate by examinations before recognized boards that they have achieved a degree of proficiency in certain fundamental studies before they are admitted to practise their vocation.

In engineering, on the other hand, there have been many engineers of the highest rank, like George Westinghouse, Thomas Edison and John Fritz, who would have been debarred from the profession if they had had to pass examinations for admission. It is this wide diversity in the character of training for the engineering profession that makes it practically impossible to require engineers to be licensed by examination. It is also a serious obstacle in the way of the formulation of a common code of ethics. Engineers have not been trained to take any specific viewpoint regarding professional conduct, and practice in the various branches therefore differs in certain details. In the future it should be the function of engineering colleges to develop among students a greater sense of professional unity than at present, and a better understanding of what constitutes proper professional conduct as expressed in the common code of ethics. Such action will greatly enhance the honor and dignity of the engineering profession.

ORGANIZATION AMONG ENGINEERS

The lack of an engineering literature in the early days led engineers to come together in societies for the interchange of technical information. The first of these was the Institution of Civil Engineers in England, established on January 2, 1818. The objects of this historic institute were stated as follows: "For the general advancement of mechanical science and more particularly for promoting the acquisition of that species of knowledge which constitutes the profession of a civil engineer, being the art of directing the great sources of power in nature for the use and convenience of man."

The first American organization was the Boston Society of Civil Engineers, organized July 3, 1848. The American Society of Civil Engineers was organized in 1852, followed by the American Institute of Mining Engineers (now the American Institute of Mining and Metallurgical Engineers), started in 1871. The American Society of Mechanical Engineers was founded in 1880. The American Institute of Electrical Engineers was organized in

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1884. The American Society of Heating and Ventilating Engineers was established in 1894.

Probably the first engineering organization to develop a code of ethics was the Institute of Civil Engineers in England. Their code, consisting of only six clauses, set the standards of the profession in England for many years, and is still followed.

During the early years of each of the American organizations, its membership was generally limited to the leaders of that respective branch of engineering. These men devoted themselves largely to interchange of technical information in order to broaden their experience in their particular line. Later on, practical engineering standards received attention. These two factors, the exchange of technical information and the establishment of engineering standards, are still the most important functions of our leading engineering societies.

Within the last two decades engineers have turned their attention to administrative as well as to purely technical work and have applied the engineering methods of analysis to business and even to the problems of government. Engineers, in many capacities, rendered professional services of the highest order during the late World War. In fact, it has been called an "engineers' war." In Canada, Mr. Thomas Deacon, an engineer, was Mayor of Winnipeg during the years of its most rapid development, and conceived and put through many of the most important of the city's undertakings. Mr. Herbert Hoover, an engineer, as Director of the Belgian Relief during the European War, and later as Secretary of Commerce in the United States, has rendered public service of a high order.

The general public has been slow to recognize engineering as a profession and has failed until recently to distinguish between the trained engineer and the mechanic or contractor. This is largely due to the fact that engineers have had no established common rules of professional ethics that they recognize among themselves or that are generally understood. The public knows that doctors and lawyers are bound to abide by certain recognized rules of conduct. Not finding the same character of obligations imposed upon engineers, people have failed to recognize them as members of a profession.

EARLY ATTEMPTS AT THE FORMULATION OF A CODE

About fifteen years ago this situation received the attention of leaders in various American engineering societies, and committees were appointed to draw up codes of ethics for several of these organizations. These committees did excellent pioneer work and wrote some splendid codes which, when analyzed, show that the same high motives prevailed in the various branches of engineering, although expressed differently in the several versions. The early codes can be found in the publications of the various organizations. Naturally there were some points on which the different codes were not in agreement. A difficulty arose when the question of administering these codes came up for consideration, due to the fact that what was forbidden in one code might be tolerated in another. The engineer who belonged to more than one society was frequently in a dilemma from these conflicting rules. The codes in each case simply reflected the practice of the profession at that time. Engineers had not then reached the point where they acted as a unit. Committees on professional conduct were appointed in various societies, but due to insufficient authority and to other causes, they have never functioned in the way that

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they were intended. This was partly due to the attitude of engineers themselves. They have been reluctant to act as policemen and to inaugurate a case against a fellow engineer, even though he may have been guilty of professional misconduct. The medical societies, on the other hand, spend large sums each year in keeping fakers and dishonest practitioners out of the profession,

Furthermore, the constitution of certain of the engineering societies lacked any provision for disciplining its members when found guilty of such misconduct. Hence these administrative committees usually ceased to function, and the codes of ethics of such societies have generally been forgotten. The membership of all organizations has increased rapidly in recent years and many of the present members do not know that their particular organization ever had a code of ethics. In fact, even the president of one of the national societies recently ruled from the chair that the society had no code of ethics, as he was not a member when one had been adopted several years earlier and it had never been called to his attention since he became a member.

The late Isham Randolph, of Chicago, wrote an excellent code entitled "The Engineer's Applied Ethics" for the American Association of Engineers, and, to their credit, it should be said that they have made a sincere effort to administer this code effectively.

The late war brought about a spiritual awakening throughout America, and this led many engineers to give serious consideration to the status of their profession. During the fall of 1919, Dean M. E. Cooley, then President of the American Society of Mechanical Engineers, appointed a committee, of which the writer was chairman, to report on the code of ethics of that society and its administration. Only one member of the committee, Mr. Charles T. Main, had previously taken much interest in professional ethics. Some time had therefore to be devoted to a study of ethics and of the society's code which had been adopted in 1913. In the spring of 1920 the committee reported to the society that the former code seemed too long and had been generally forgotten by the members. A preliminary draft of a shorter code was offered for discussion. This was referred back to the committee, who gave the matter further consideration. A second report was presented at the annual meeting of the society in December, 1920, where a provisional draft of a code of ethics and suggestions for its administration were debated at length. The committee appreciated the desirability of a common code of ethics for all engineers in every branch of the profession and suggested that action be taken to prepare such a common code. The society again referred the report back to the committee with the recommendation that an effort be made to prepare such a common code of ethics for the whole engineering profession.

ORGANIZATION OF THE JOINT COMMITTEE

In the meantime the Federated American Engineering Societies had been organized and the engineering profession had gained a new feeling of unity of purpose. At first it was thought that the preparation of a common code of ethics should be undertaken by the new federation. However, this organization had already undertaken the investigation of waste in industry and other urgent matters were demanding its attention. It was therefore thought best to leave the matter of a common code of ethics with the member societies. It was further considered advisable to

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have a relatively small informal committee to prepare a code, rather than a large unwieldy formal committee. Invitations were therefore sent to several representative societies to delegate certain of their members to serve on this informal committee. This action was taken by most of the societies. The American Institute of Electrical Engineers, however, left the question in the hands of their Committee on Professional Conduct, who afterwards took part in the informal deliberations on the code.

The Joint Committee faced a tremendous problem. Doctors and lawyers serve a limited clientele in what might be described as a consulting capacity, corresponding in a way to the consulting engineer. A vast majority of engineers are employed by corporations, commissions, governmental bodies and private individuals in administrative, managerial, sales, manufacturing and technical work. A lesser number are consulting engineers. It is a difficult task to define the obligation of engineer to client or employer and the attitude of the engineer to fellow engineers, to the public, and to technical and other educational institutions. Since the committees appointed to administer the former codes had dealt with practically no cases, there were no so-called "court decisions" to assist the Committee in defining good professional conduct. Furthermore, there were differences in practice on certain details among the various professions which had to be harmonized. The Joint Committee, at its first meeting, therefore, decided that a short simple code of ethics, expressed in general terms, was the only one possible under the present circumstances and further, that the code should, if possible, be no longer than could be written on a single sheet of typewriter paper, so that it might be more easily kept before the members of the profession. Such a code would be less likely to be laid aside and forgotten than a lengthy explanatory dissertation.

It is human nature to dislike rules that prohibit certain acts, such as "Thou shalt not do so-and-so." It was therefore the opinion of the Committee that the new code would make a stronger appeal and would have greater dignity if expressed in positive rather than negative language, and this idea was paramount in the formulation of the code. Committees on professional conduct were recommended in each society to interpret and administer the new code and a committee to act as a supreme court was suggested to harmonize interpretations among the different societies. If this procedure is adopted it will be possible in later years to have another committee add either additional clauses or explanations to the code based on the decisions and interpretations of these committees and on the development of professional thought among engineers themselves.

Men do not always understand the same meaning to be conveyed by a certain word. Hence even after the fundamental ideas of good professional conduct had been agreed upon, and a rough draft of the code was prepared, much time was spent in clothing these ideas in simple English words that would be acceptable to the whole Committee. Valuable assistance in this work was rendered by friends in the legal profession and by certain professors of English. The task, however, was finally accomplished and the final report of the Joint Committee reads as follows:

REPORT OF THE JOINT COMMITTEE ON A CODE OF ETHICS FOR ENGINEERS

The Joint Committee consisting of representatives of the American Society of Civil Engineers, the American Institute of Min-

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ing and Metallurgical Engineers, the American Society of Mechanical Engineers, the American Institute of Electrical Engineers, the American Society of Heating and Ventilating Engineers, appointed to consider a Code of Ethics for Engineers, recommends, after deliberate consideration, that each participating Institute or Society adopt the short simple Code of Ethics which follows:

A CODE OF ETHICS FOR ENGINEERS

Engineering work has become an increasingly important factor in the progress of civilization and in the welfare of the community. The Engineering Profession is held responsible for the planning, construction and operation of such work and is entitled to the position and authority which will enable it to discharge this responsibility and to render effective service to humanity.

That the dignity of their chosen profession may be maintained, it is the duty of all Engineers to conduct themselves according to the principles of the following Code of Ethics:

1. The Engineer will carry on his professional work in a spirit of fairness to employes and contractors, fidelity to clients and employers, loyalty to his country and devotion to high ideals of courtesy and personal honor.

2. He will refrain from associating himself with or allowing the use of his name by an enterprise of questionable character.

3. He will advertise only in a dignified manner, being careful to avoid misleading statements.

4. He will regard as confidential any information obtained by him as to the business affairs and technical methods or processes of a client or employer.

5. He will inform a client or employer of any business connections, interests or affiliations which might influence his judgment or impair the disinterested quality of his services.

6. He will refrain from using any improper or questionable methods of soliciting professional work and will decline to pay or to accept commissions for securing such work.

7. He will accept compensation, financial or otherwise, for a particular service from one source only, except with the full knowledge and consent of all interested parties.

8. He will not use unfair means to win professional advancement or to injure the chances of another engineer to secure and hold employment.

9. He will coöperate in upbuilding the Engineering Profession by exchanging general information and experience with his fellow engineers and students of engineering and also by contributing to the work of engineering societies, schools of applied science and the technical press.

10. He will interest himself in the public welfare in behalf of which he will be ready to apply his special knowledge, skill and training for the use and benefit of mankind.

These ten general clauses can, in the opinion of the Committee, be interpreted to cover all cases of questionable conduct that may arise in the engineering profession. It will be necessary during the first few years following their adoption, to have many specific interpretations rendered on certain clauses where professional practice is not wholly standardized. The Committee recognized this need and gave much consideration to methods to meet this situation and to permit the adjustment of engineering thought to single viewpoints as developed in the administration of the code. The standing committees on professional conduct in each organization and the Joint Committee of all organizations will serve to make workable rules of these clauses.

In order that this code should not prove a dead letter on each society's records, the Joint Committee made the further recommendations in its report to care for the administration of the common code of ethics as follows:

The Committee further recommends that the following method of interpreting and administering the Code be adopted by each participating Institute or Society after any necessary provisions have been made in the Constitution and By-laws of the organization.

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"The President of each Society or Institute shall appoint a *Standing Committee on Professional Conduct* to administer the Code of Ethics. The duties of such a Committee shall be to interpret the Code and to render opinions on any cases of questionable conduct on the part of members that may be submitted to the Committee. These interpretations shall be reported to the Executive Board of the Institute or Society who may approve these interpretations, or take such other action as may seem just and necessary. The reports of the Committee on Professional Conduct when approved by the Executive Board, shall be printed in abstract and in anonymous form in the Institute's or Society's monthly journal for the instruction and guidance of fellow members.

This Committee on Professional Conduct shall be appointed in each Institute or Society by the President holding office at the time of the adoption of this Code and shall consist of five members, one appointed for five years, one for four years, a third for three years, a fourth for two years and a fifth member for one year only. Thereafter, the President then holding office shall appoint one member annually to serve for five years, and shall also fill any vacancies that may occur for the unexpired term of the member who has withdrawn. These appointments shall be made from among the older members of the Institute or Society, so that advantage may be taken of their mature experience and judgment. The Committee after appointment shall elect its own Chairman and Secretary. The Committee shall have power to secure evidence or other information in any particular case, not only from the organization's own members, but if it should seem desirable, from men in other professions. The Committee may also appoint sub-committees to consider certain cases when deemed necessary.

This Committee shall investigate all complaints submitted to it by the Secretary of the Institute or Society bearing upon the professional conduct of any member and after the member involved has been given a fair opportunity to be heard, the Committee shall report its findings to the Executive Board of the Institute or Society. This report may in some cases suggest certain procedure to the Executive Board.

The Executive Board of the Institute or Society shall have power to act on the recommendation of the Committee on Professional Conduct, either (1) to censure by letter the conduct of the member who has acted contrary to the Code, if the breach is of a minor character, or (2) to cause the member's name to be stricken from the roll of the Institute or Society.

Copies of all reports made by a Committee on Professional Conduct to the Executive Board of each Institute or Society shall be furnished to each other Committee on Professional Conduct administering the Code. This will keep each Committee advised of the interpretations of other Committees, and in time an extended interpretation of the Code can be written based on the reports of the various Committees on Professional Conduct.

As interpretations of the various Committees on Professional Conduct administering this Code may vary at times, it is recommended that the Chairmen of these Committees of the various Institutes or Societies be authorized to act as a Joint Committee to review such differing interpretations and to bring them into unity with one another.

As a matter of record, it is interesting to note the representative character of the Joint Committee, which was composed of the following members:

JOINT COMMITTEE ON CODE OF ETHICS

A. S. C. E—C. C. Elwell
A. S. C. E.—A. M. Hunt

A. I. M. & M. E.—J. Parke Channing
A. I. M. & M. E.—Philip W. Henry

A. S. M. E.—A. G. Christie, *Chairman*
A. S. M. E.—H. J. Hinchey
A. S. M. E.—Chas. T. Main
A. S. M. E.—J. V. Martenis
A. S. M. E.—Robert Sibley

A. I. E. E.—Comfort A. Adams
A. I. E. E.—G. Faccioli
A. I. E. E.—George F. Sever
A. I. E. E.—L. B. Stillwell
A. I. E. E.—S. S. Wheeler

A. S. H. V. E.—Frank T. Chapman
A. S. H. V. E.—S. A. Jellett
A. S. H. V. E.—Perry West

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This is the first joint endeavor of American engineers to provide the very necessary ethical standards of their profession. Since the code is in general terms only, many will wish further interpretations and explanations of the various clauses. Much might be written on this subject and some additional thoughts might be contributed. The code, however, has not been accepted as a professional standard at the time that this is written. Any elaborations would therefore be merely personal opinions of the writer which might later prove embarrassing to committees on professional conduct. It therefore seems best at the present moment to attempt no further discussions of the various clauses.

The mere fact that such a code has been drafted by such a representative committee is in itself a significant accomplishment. A few years ago engineers publicly stated that such a thing could not be done. Even if the report and code are adopted, much still remains to be done. Decisions and interpretations by the various committees will crystallize still further the common professional standards and will consolidate engineers as a professional body. An excellent suggestion is that every graduate of an American engineering college should be required to affirm the code before he is granted his degree and starts on the practice of his profession.

While engineers generally regard themselves as members of a profession, the public has not heretofore given them a full measure of professional recognition because the average person has no clear idea of the professional obligations of an engineer. This recent attempt to express the ideals of honorable engineering conduct and the engineer's attitude towards the affairs of life will command the interest and respect of the average citizen and will exert a tremendous influence toward securing for engineering the full measure of respect as a profession that is its just due. With such an objective in view it behooves every engineer to give the new code his fullest support so that he may thereby enhance the honor, dignity and respect of his chosen profession.

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Public Interest and the Architect

By M. B. Medary, Jr.
Philadelphia, Pennsylvania
Fellow, American Institute of Architects

FROM time immemorial mankind has been vaguely conscious of the obligations and responsibilities arising out of the contacts inseparable from social life. Of all ancient written documents, none is more widely known to the Western World than the first book of the Hebrew Scriptures, and in this book the story of the first family life upon the earth develops the question of responsibility for the welfare of others . . . "And the Lord said unto Cain 'Where is Abel, thy brother?' And he said 'I know not. Am I my brother's keeper?' "

All ethical codes and rules of conduct are in some degree attempts to answer Cain's question—a question which increases in its importance to society with the passing of each generation, from the days of the first family group to the infinitely complex relations of men today. It is of increasing importance because the obligation is a cumulative one. Each generation is heir to a richer inheritance from the past and with it is under a greater obligation to the future.

All knowledge which we possess, or which is within our reach, is the gift of the countless minds of past generations, each adding its own contribution and passing it on to the future. This accumulated knowledge is impersonal. It is common property, no matter how great the contribution of an individual or a group in any generation, for these contributions are inspired by and reared upon the foundations slowly built up during the centuries, and represent that part of great lives which remains immortal.

An education should be an effort to grasp the meaning of this vast inheritance, to accept in trust as much of it as we are capable of understanding, to add our own contribution and to deliver it to the future enriched rather than impoverished.

Obligation of the Professions to Society

The professions represent groups of men and women who have closen special fields of knowledge as the basis of their life-work, and in each of these fields the professional worker finds his subject already developed by the consecutive thought of thousands of predecessors. To take this work of others and sell it for his private gain, adding nothing to it and giving nothing of his special knowledge to the rest of society engaged in other work, is to practise a profession without ethics and without recognition of any obligation to society as a whole, to whom all knowledge belongs.

The so-called "abandoned farms" of New England have been frequently referred to in the past to illustrate the physical effect of appropriating the accumulated natural wealth of the earth without returning anything to the land. Although this wealth reappeared indirectly in stately mansions, facing an avenue which with singular irony was named "Commonwealth," the land had lost its life and could regain its original vitality only after years of effort.

The practice of the professions without the fullest realization of responsibility to society must inevitably react in the same manner, and if the archi-

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tectural profession laments the fact that our civilization is not as rich architecturally as the civilizations of Greece and Rome, it is pertinent to inquire how much the students of the architectural history of the past are giving of their knowledge to society as a whole today.

The architectural profession was conscious of this obligation when, in writing its constitution in the middle of the last century, it stated that one of its objects should be "to make the profession of ever-increasing service to society." The declaration of this object remains a challenge to every member of the profession to give of his special knowledge to the community in which he lives and to the world at large.

The bad housing of the very poor—through ignorance of the basic principles of good planning and sanitary requirements, or by reason of the unregulated selfishness of the speculator in land and building operations—is, in the last analysis, chargeable to those who, by their special training and knowledge, know the dangers to a community resulting from such conditions and, while guarding their private clients against these dangers, have failed in their clear duty to use their knowledge for the benefit of the whole community and to keep the public informed in the means of correcting such conditions. Every community has the right to demand that public service from its architects which will influence its physical development, in the same manner as it expects and demands from the medical profession protection from the consequences of ignorance of medical laws.

PECULIAR ARCHITECTURAL RESPONSIBILITY

The enormous economic losses and the great cost of living in congested cities (due largely to the physical anarchy resulting from lack of planning or zoning) cannot be contemplated by those who have been specially trained in planning without the sense of a direct responsibility to the public for leadership in any movement which will ameliorate these conditions. The architectural profession knows that the planning of a city and the orderly arrangement of its activities is as necessary as the planning and arrangement of the activities of a house, a hotel or a department store, and that the consequences of failure in these matters are multiplied a thousand-fold in the case of our cities. It is the duty of the profession to make it clear to the people of a city that, while they as individuals demand that the various functions of their homes shall be arranged in proper relation to each other, it is of still greater importance to them collectively that the various functions of their collective home, the city, shall be arranged with the same foresight.

Can the architect of today contemplate without a sense of responsibility the utilitarian structures of our present civilization? Can he compare the bridges which span our streets and rivers, in the city and country, with those of older civilizations without feeling that his profession has given too little of its time to inform and influence the rest of society? And, in the matter of design, can he compare the popular acceptance of the design of today with the popular demand of the people of Athens, Rome, Pompeii or Florence without feeling an immense obligation to give more of his knowledge to society in the public interest?

The architecture of the United States up to the beginning of the nineteenth century indicated an understanding public. It was the individual struggle for material gain during the nineteenth century, progressing contemporaneously with the development

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of quick and easy communication with the four quarters of the earth, which brought us to its close with no understanding demand from the public to guide the architectural development of the day. Colleges and universities throughout the country were giving their degrees to graduates without having acquainted them with the meaning of the Fine Arts to civilization. Architects, sculptors and painters were serving only a limited few and were conscious of a great gulf between themselves and the public. The work of our few sculptors was rarely seen outside of galleries, and if we compare this work with that patronized by the public, such as the Civil War monuments in every city, town and hamlet, we realize that commercialism had supplanted art in the patronage of the public. This was equally true of architecture and all the arts and crafts. The designers of furniture, decorations and household fixtures and utensils of every kind rarely had any training in the schools of art.

ORGANIZED ATTACKS ON ARTISTIC ILLITERACY

These conditions have been changing for the better in recent years. The World's Fair at Chicago marked the beginning of a public understanding of the larger meaning of architecture, and the group of men who were responsible for the planning of that work also succeeded in arousing a public understanding of the great importance of the original plan of the National Capitol, which was rapidly being lost beyond redemption through public ignorance of its meaning or even of its existence, as a fundamental upon which the future of the Capitol depended for its dignity and distinction.

The influence of this same group is perpetuated today in the National Fine Arts Commission and in the city planning and art commissions which are now functioning in many states and cities throughout the country.

In more recent years the American Institute of Architects has secured the interest of a number of colleges and schools in the proposal to add a course in the understanding of architecture to their curricula, this course to be quite apart from the technical courses offered to those expecting to practise architecture as a profession. The profession is awake to its responsibility in many lesser ways and believes that the public understanding is already well on its way out of the artistic illiteracy which marked the lowest ebb of the nineteenth century. We are still, however, *Between the Old World and the New* (if I may borrow the title of Guglielmo Ferrero's very interesting book), and, to borrow from its substance, we have broken through the limitations which made a standard of public judgment possible in the ancient world. We are now rioting in our freedom from any limitations and have not yet fully appreciated the necessity of having new limitations. In short, we do not yet know whether New York is ugly or beautiful.

The profession will have grasped its full responsibility only when every member of it recognizes in the public interest his first and greatest obligation.

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The Ethical Standards of the Architects and the Procedure for Their Enforcement

By HORACE W. SELLERS
Philadelphia, Pennsylvania, Fellow, American Institute of Architects

IT has been said that in the Decalogue we have all the law that is in the province of legislatures and courts to maintain, and that while such bodies may determine arbitrarily what men shall not or must not do, all the wisdom of the world has not been able to determine wisely what men shall do except that they must render justice and respect the rights and property of others. If this is true of government in general, it should furnish the criterion by which to fix the limitations of canons of ethics which are mandatory upon us in our professional relations.

Apart from such influence upon standards of practice as state registration laws may tend to exert, the architectural profession in general is governed chiefly by the ethics of the individual and by public opinion. The exception to this is found where practitioners have entered into an association to support whatever standards of practice they may adopt in recognition of their duties and obligations to the public and to each other.

The American Institute of Architects as such an association, while national in scope, comprises numerically but a fraction of the practitioners throughout the country, notwithstanding the fact that membership is open to all architects of good repute who are qualified by education and experience to assume the varied responsibilities the profession involves. It may be safely assumed, therefore, that the influence unquestionably exercised by the Institute upon the profession at large and upon public opinion, is not by force of numbers but through recognition of the fact that the principles of practice and ideals of the association are prompted by unselfish motives and aim to promote the interest of the client as well as to raise the standards of the profession in general. The fact that its ethical canons are mandatory upon but a minority of the profession controverts the charge sometimes made that the attitude of the Institute, especially in regard to architectural competitions, is tantamount to "restraint of trade."

The principles of practice promulgated by the Institute are in accord with the purpose expressed in its constitution: namely, to unite in fellowship the architects of the United States, to combine their efforts so as to promote the aesthetic, scientific and practical efficiency of the profession and to make the profession of ever-increasing service to society.

To support its ideals and principles of professional conduct with the least possible interference with the rights of the individual, the constitution of the Institute provides that its canons of ethics shall be accepted by the members as standards of good practice and since these are embodied in the by-laws to which all candidates *ipso facto* subscribe, a disciplinary procedure is provided whereby these principles shall be enforced. Although, as stated, personal integrity and professional standing is expected of all candidates for membership, it is recognized that under the influence of environment and the larger body of practitioners outside of the Institute, in his community an architect may be led away from strict adherence to the ideals of his profession; and for this reason there is issued

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periodically to the members a "Circular of Advice Relative to the Principles of Professional Practice and the Canons of Ethics" and also a "Circular of Advice and Information Respecting Competitions," in which the attitude and ideals of the Institute are expressed. In these circulars distinction is made between general principles of practice which are considered to be the good manners of the profession and which should govern the architect in his several relations, and the Canons of Ethics adopted by the Institute.

The general principles thus stated depend chiefly upon self discipline for their maintenance, while on the other hand the Canons are mandatory obligations of membership, infraction of which is subject to the disciplinary procedure established under the constitution and by-laws.

THE CANONS AND THEIR APPLICATION

Referring to the Canons in numerical order, (*See* page 280) it will be noted that Nos. 1, 2 and 3 rest on the principle that the architect in his capacity as professional adviser to his client in the selection of materials and methods must be absolutely impartial and disinterested; and, accordingly, should not be engaged or in any way personally interested in the building trades or be under personal obligations to manufacturers or others whose products enter into the building operation under his supervision. Certainly he should not specify the use of any material or device in which he has an interest without advising his client.

(No. 2). To guarantee an estimate may tempt the architect to modify the requirements of the work to meet the limit of cost without strict regard for the client's interest or at least influence his judgment as interpreter of the contract drawings and specifications.

The acceptance of a commission (No. 3) or any substantial service from a contractor or any one engaged in the building trades as in the above case may consciously or subconsciously tend to influence the architect's judgment, thus placing him in an unprofessional position in relation to his client's interests.

As stated in the "Circular of Advice and Information Respecting Architectural Competitions," the Institute does not presume to dictate or even offer its advice to architects in general, but, being a professional society charged with maintaining ethical standards among its own members, its duty is to see that they do not take part in competitions that fall below the reasonable standard prescribed by the Institute to establish equitable relations between the owner and the competitors. For a member to take part in a competition that has not received the approval of the Institute (No. 4) is judged unprofessional so far as members of the Institute are concerned.

Where a competition has been established under the approved regulations (No. 5), the owner assumes a moral obligation to those invited or otherwise authorized to participate, to retain one of their number as architect for the work. For an architect not a participant to attempt to secure the commission while the competition is in progress is equivalent to an effort on his part to supplant a fellow practitioner after definite steps have been taken toward his employment.

Absolute and effective anonymity is a necessary condition of a fair and impartial competition (No. 6) and it is understood that the owner and all connected with the project shall refrain from holding any direct communication with the participating architects. For an architect to attempt to influence the owner or others in his favor di-

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rectly or indirectly while the competition is in progress would involve disclosing his identity and would be a breach of the agreement under which he is admitted as a participant. An attempt on the part of an unsuccessful competitor to influence the owner's final decision would involve a breach of good faith with architects who participated.

(No. 7). It would impugn the good faith of the adviser in his relations to the competitors and owner should he accept the commission as architect for the work, thus making himself party with the owner to a breach of the contract with the competitors as to the award.

(No. 8). To bear false witness or otherwise maliciously injure the reputation of a fellow practitioner is a breach of the moral code that should govern human all relations.

(No. 9). Where the employment of an architect has been terminated but where his claim for compensation or damages remains unsatisfied, another architect, who in the meantime accepts the same commission, exposes himself to the charge of attempting to supplant a fellow practitioner. To guard against this and as a professional courtesy, the commission should not be undertaken without a conference with the architect previously employed and a satisfactory understanding as to his present status and rights in the matter.

To volunteer the submission of sketches or otherwise to solicit employment where another architect is known to be engaged on a project (No. 10) constitutes an effort to supplant a fellow practitioner, a practice which is derogatory to the dignity of the profession, and which, if encouraged by the owner before reaching a final decision, is equivalent to establishing an unregulated competition.

Beside the documents already mentioned, the constitution of the Institute provides for a schedule of professional charges complying with good practice and custom, and while this schedule is not made mandatory it indicates a minimum charge for services based upon experience under ordinary conditions.

An architect is at liberty to disregard this schedule if he sets a lower valuation upon his services in making his terms with his client. It is unprofessional, however, for an architect to attempt to secure employment by underbidding a fellow architect. Such a practice not only places his advisory service upon the basis of merchandise bartered in trade but exposes the lower bidder to the charge of endeavoring to supplant a fellow practitioner should the owner have already taken steps toward his employment.

Unlike the publishers of house plans and designers who make a business of furnishing general plans without undertaking to supervise the building operation, the Institute holds that the architect in his professional capacity has a larger duty to his client. As a technical adviser his services consist of a personal study of the client's problem, to which he brings the result of his education and experience, taste and judgment; and furthermore his services properly include the general administration of the business details and supervision of the work and preparation of contract documents. The preliminary studies or sketches and the working drawings necessary to the building operation are simply instruments of service which remain the property of the architect, and are not equivalent to a commodity to be purchased of the lowest bidder.

THE PROCEDURE FOR THE ENFORCEMENT OF ETHICAL STANDARDS

For the enforcement of the mandatory principles embraced in the Canons of Ethics, the constitution and by-laws

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provide a disciplinary procedure as follows:

Art. VII, Sec. 3 of the Constitution

All questions of discipline of a Member shall be submitted to the Board of Directors, which shall decide finally and without recourse any questions of action conflicting with the Constitution or By-Laws of the Institute or of the member's Chapter, non-payment of dues to Institute or Chapter, or questions of unprofessional conduct; and acting under this section the Board may suspend a Member, pass a vote of censure upon him, drop his name from the roll of members, or expel him; but no such action shall be taken until the accused shall have had an opportunity to be heard in his own defense.

Art. IV, Sec. 2 of the By-Laws

All questions of discipline of a member shall be determined in accordance with the following procedure:

It shall be competent for and shall be the duty of any Member or Committee of the Institute or of any Chapter to bring to the attention of the Committee on Practice any alleged unprofessional conduct on the part of any Member without being deemed to have entered a formal complaint against such Member. The Committee on Practice shall, when its attention is drawn to any such matter, conduct a preliminary examination into the facts, and if a *prima facie* case shall appear against a Member, it shall so report to the Judiciary Committee. The Judiciary Committee shall hear and adjudge every case so reported to it and shall give the Member an opportunity to be heard in his own defense. Its findings shall be conclusive in regard to all questions of fact involved in the evidence submitted.

The Judiciary Committee shall report its findings to the Board of Directors. If the findings are adverse to a Member, the Board of Directors shall take such action thereon as it shall see fit according to the Constitution. A Member may appeal in writing to the Board of Directors on questions of professional or ethical policy.

Any Member may appeal to the Committee on Practice from any action of a Chapter Executive Committee regarding alleged unprofessional conduct. In such case the procedure shall be as provided above in this section, but no decision of the Committee on Practice or the Judiciary Committee reversing the previous action of the Chapter Executive Committee shall be effective unless ratified by the Board of Directors. The action of the Board of Directors shall supersede the action of the Chapter Executive Committee.

If in any case pending before either the Committee on Practice or the Judiciary Committee, any oral testimony has actually been given, such committee shall have the power to continue and conclude its work on that particular case, notwithstanding the expiration of the term of office of any or all of its Members.

The Board of Directors shall, from time to time, establish rules of procedure for the guidance of the Committee on Practice and the Judiciary Committee.

RULES FOR THE DISCIPLINARY COMMITTEES

To perform its disciplinary functions the Committee on Practice and the Judiciary Committee above referred to are governed by rules which set forth the procedure following a charge of unprofessional conduct against a member. In some cases a preliminary investigation is made by the local Chapter when one of its members is involved and if the evidence warrants, the charge may be dismissed by the local body, or referred to the Institute Committee on Practice, the case being then taken up in pursuance of the following rules:

RULE 1. *Procedure of Committee on Practice.*—Whenever there has been

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brought to the attention of the Committee on Practice any alleged unprofessional conduct on the part of any member, the Committee on Practice, after due investigation, if of the opinion that a *prima facie* case has been made out, shall send the following information by registered mail to the member involved, to the complaining member if there is one of record, and to each member of the Judiciary Committee:

A copy of the findings of the Committee on Practice, embracing a reference to the Code, Canon, By-Law, or other rule or principle of the Institute claimed to be violated;

A specification in concise form of the particular offense, giving in detail its time, place, and occasion, as far as practicable; also a complete file of evidence of the case as transmitted to the Judiciary Committee;

And a printed copy of these rules.

RULE 2. *Procedure of Judiciary Committee.*—The Chairman of the Judiciary Committee, on receipt of copies of the findings and all evidence of record in regard to the case from the Committee on Practice, will communicate by registered mail with the member to whom notice has been sent as provided for in Rule 1, with the request that he state whether he acknowledges the facts to be in substantial accordance with the findings of the Committee on Practice, and whether he is willing to waive a formal hearing before the Judiciary Committee. If such hearing is waived he shall be permitted to present a written statement in explanation of his alleged offense, which will be duly considered by the Judiciary Committee in rendering its decision and in submitting its report to the Board of Directors; but in case he denies the findings of the Committee on Practice, or does not waive a formal hearing (and delay in replying beyond fifteen days from the date of the notice of the Chairman of the Judiciary Committee above provided for will be construed as a waiver), or in case the offense with which the member is charged is of such gravity that the Judiciary Committee is of the opinion that a formal hearing is necessary, then a formal hearing will be ordered by the Chairman of the Judiciary Committee who will advise him by registered mail of the place, date, and hour at which the Judiciary Committee will hear the matter, notifying him that he will be at liberty to appear at such hearing and to offer at that time any evidence on his own behalf in denial or palliation of the particular offense on which the findings of the Committee on Practice are based. The complaining member, if there be one of record, shall also be notified, by registered mail, of the place, date, and hour of the hearing, and he shall be given the opportunity of testifying at said hearing.

The Committee on Practice, through its Chairman or otherwise, may present for the consideration of the Judiciary Committee at the said hearing such additional evidence as may have come into its possession since its findings were transmitted to the Judiciary Committee, and shall have the right to summon and to question witnesses with a view of bringing out all sides of the case at issue. The Judiciary Committee may also summon and question witnesses if the circumstances so warrant in its judgment.

RULE 3. *Absence of Interested Parties.*—The absence of the member against whom complaint has been made, or the absence of witnesses duly summoned from the hearing before the Judiciary Committee (held as above provided in Rule 2), shall not prevent the Committee from proceeding with the case and making due disposition of it in accordance with the evidence presented.

RULE 4. *Refusal to Testify.*—The member against whom the Committee on Practice has found a *prima facie* case shall, on his appearance before the Judiciary Committee, present himself for examination and shall fully answer all material questions that may be propounded to him, and the refusal to so

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answer such questions, or the deliberate evasion thereof in the judgment of the Committee, shall be construed as a violation of the objects of the Charter of the Institute as well as of its Constitution, and shall be reported to the Board of Directors by the Judiciary Committee who may after proper proceedings discipline or expel such member.

RULE 5. *Submission of Evidence.*—The Judiciary Committee shall be the sole and absolute judge of the admissibility of all evidence brought before it as well as of its value. While the best evidence is in general to be procured, the Committee shall be entirely free to accept any other logically relevant evidence that may be offered to it, and if the same is not the best evidence obtainable, to give it such rating for accuracy and reliability as they see fit. If members of the Institute have in their possession any original letters or papers or copies thereof that are involved in any complaint or findings, they shall produce said letters or papers or copies on request or shall send copies thereof with a certificate annexed, signed by themselves, stating that the original is in their possession and that they have personally compared the copy with it and that the copy submitted is a true, complete, and correct copy thereof.

RULE 6. *Hearings by the Board.*—If the Judiciary Committee, after hearing a case against a member, makes any findings involving such member, that member, and the complaining member, if there is one of record, shall be notified thereof by registered letters. Such notice should contain the findings of the Judiciary Committee, the judgment it recommends, and be in the form and substance in which the findings are to be presented to the Board of Directors.

When the Judiciary Committee makes a finding it shall contain the findings of the Committee on Practice, a statement of the case, a recital of the facts of the case, the discussion of the Judiciary Committee, and its decision.

Copies of the findings shall also be mailed to each member of the Board of Directors; and the Board, through the Secretary of the Institute, shall set a time and place at which the findings of the Judiciary Committee shall be presented, and at which the accused shall have opportunity to be heard. A notice shall be sent to the accused and to the complaining member, if there is one of record, by registered mail thirty days in advance of the time of the hearing, notifying each of them of the time and place of hearing.

The Chairman of the Judiciary Committee may prosecute the case before the Board with the assistance of the other members of the Judiciary Committee if they so desire, but neither the Chairman of the Judiciary Committee nor any member of the Judiciary Committee shall participate in the deliberations of the Board of Directors over the matter nor vote thereon.

At the hearing the Judiciary Committee will present its findings to the Board, at which time the accused shall be given opportunity to be heard in his own defense, and he may introduce written evidence or call witnesses in refutation of the charge against him, but in all cases the Board shall be the judge of the relevancy or the admissibility of such evidence. Such testimony must be logically relevant to the findings of the Judiciary Committee, unless in the judgment of the Board of Directors the accused should be permitted to raise a question of professional or ethical policy, in which case evidence of a more general character may be introduced. If the accused does not appear personally, he may submit his defense in a written communication addressed to the Board of Directors.

RULE 7. *Publication of Findings.*—The action taken by the Board of Directors whether for or against the accused shall be reported to each member of the Institute in full or in brief as shall be determined by the Board of Directors, who in their discretion may also

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direct the sending of the findings of the Judiciary Committee to each member.

RULE 8. *Publication of Exoneration.* —Should the Committee on Practice fail to find a *prima facie* case, it shall so advise the Board of Directors, for record, and the accused and accuser. Should the Judiciary Committee exonerate any accused member, the Secretary of the Board shall so advise the accused and accuser, and if requested by the accused shall forward a copy of its findings for publication in THE JOURNAL, in addition to the sending of such findings to each member of the Institute.

RULE 9. *Service of Secretary's Office.* —The Committee on Practice and the Judiciary Committee may call upon the Secretary of the Institute for the assistance of his clerical force in the work of their committees, and it shall be the duty of the Secretary to furnish such assistance.

The Architectural Student and His Relation to Professional Practice

By EMIL LORCH

Professor of Architecture, University of Michigan, Member of the American Institute of Architects and President of the Association of Collegiate Schools of Architecture

YOUNG men enter the architectural profession along two principal lines. Many attend an architectural school and then enter an architect's office for practical experience before engaging in independent practice; others enter such an office directly after attending high school or after pursuing a liberal arts or a scientific course at college.

The recruit's understanding of professional and ethical relations depends largely on the manner in which he has received his general and professional education, upon the kind of approach he makes to his profession and to his duties as a citizen. This approach has varied with conditions, the status of the profession before the public and the profession's realization of its duty.

As a people projects its conception of behavior in the form of law, so a profession when it becomes conscious of its obligations formulates certain regulations for its followers. A standard is set up for membership and good standing in the professional organization and this organization, with the consent of those governed, exercises disciplinary powers in the way of censure, suspension, or expulsion against offenders. Such an organization does a real educational work for the public and the entire profession concerned, gradually creating an understanding of the aims of the profession and giving it a more definite place in the general economic and social fabric.

After attaining a measure of public recognition, it becomes possible to proceed further and establish a basis of admission to the profession by requiring candidates to qualify educationally under a state law, thus protecting the public to some extent against incompetence, gaining the recognition of the state for the profession, and making possible disbarment from practice of those flagrant offenders against public interest who could not be reached through any code of a purely selective organization.

The organization of a profession with definite and published ideals of performance, seconded by a legal minimum of admission to practice for all, irre-

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spective of membership in professional societies, constitutes evidence which should make clear what the profession stands for in point of preparation and professional relations, ethical and otherwise.

THE APPRENTICESHIP SYSTEM

Before the organization of the American Institute of Architects, of the architectural schools, of architectural publications, and of registration laws, the architectural recruit received his technical and social training as the apprentice of an architect. In England he was "articled" in a professional rather than a commercial office and paid for his instruction and other privileges. The architect was morally bound to further his education, while there was a social side to the relation which tied together student and practitioner. The problems of the office were shared with the apprentice in proportion to his advancement and the personal association of master and pupil nurtured a professional sense, with a sympathy for as well as understanding of professional obligations. Here was a bond which made for fine coöperation and respect for the interests of the public and other practitioners, and created a solidarity which is still powerful in England.

America inherited and modified the apprenticeship system, long retaining its valuable contacts and handing on of knowledge. The beginner entered the office, however, more or less as a general "cub" assistant, doing everything until he finally became a full-fledged draftsman, often later becoming a member of the firm. Here, too, the system engendered loyalty and mutual respect, and in numberless cases the architect gave freely of himself to the rising generation to better the profession. Here again the personality of the practitioner and his older assistants counted tremendously in molding the beginners. These beginners were generally very young and had had little general schooling, gaining their insight of the larger relations, their world outlook, while learning how to draw, and studying at night such books as could be had. It was a highly individual process, which often left too much to the initiative of a student of very modest attainments, slight background and limited opportunities for improvement outside the office. During this period there was no approximate agreement as to the larger relations of the architect or his education, little vision as to the possibilities of architecture, and hence the beginner's introduction to the professional field varied greatly with the office where he served his apprenticeship.

ORGANIZATION OF THE ARCHITECTURAL SCHOOLS

The organization of architectural schools began in this country soon after the formation of the American Institute of Architects and their growth has rapidly displanted the apprentice system. There was a transitional period during which the value of an architectural school training was questioned by those who had come up through the other system but for some years now it has been assumed that proper preparation for the profession consists of such schooling along with the practical experience, like the physician's interneship, which must precede independent practice.

While many young men still begin in an architect's office, practically all now look forward to attending an architectural school. This change is entirely owing to higher standards of practice and the greater demands made on the profession, the rapid progress made by graduates, their greater breadth of view, and the preference of most architects for trained assistants.

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There has been a significant parallelism between the evolution of the American Institute of Architects, the colleges, universities, architectural schools and journals. It is safe to say that the schools have markedly influenced the architectural profession and that the profession's better conception of its obligations reflects much that the colleges in general stand for. Schooled men have for many years been taking over control of the Institute and, thus placed, have shaped many of its activities. The agencies enumerated above reflect, in turn, the general development of the country, its organization of industry and business, its large projects and need for hurried production, out of which has sprung the large architectural office organization for practice.

About one-half of all architectural draftsmen are employed in such organizations and in them the individual is but a cog, rarely coming into personal contact with a member of the firm. In such offices, specialization obtains as a natural outgrowth in the fields of design, construction, mechanical and other equipment, specifications, superintendence, rendering and other parts of the work; some portions of this work may even be done outside the office by other technical organizations, while the actual building operation may not be observed at all by many of the assistants who are busy throughout the day at the drawing board and thus do not see the expression in real materials of what they have drawn. They have little contact with the actual work or with the architect. As a consequence of this specialization and mechanicalization, some young men will not work in a larger office if they can possibly get into a smaller one where they can better gain a conception of the entire range of activities and have a share in more of them.

To overcome this difficulty, a splendid effort was recently made in one office to discuss the current work once a week with the entire drafting force in order to give them some insight into the conditions under which the office was serving and to bring about better mutual understanding and team play.

Clients have been known to point out that the assistants in some offices had progressed little in certain directions over a period of years, because they had been so closely tied down and had been given no opportunity to go out on the building, visit modelling and other craft-shops, and thus gain a greater sense of the reality of what they drew. Today in large offices the old bond between master and pupil is uncommon; the assistant does certain assigned tasks, works as a member of a squad and gains little attachment for his employer and no great enthusiasm for his work; close interdependence and personal interest and contact are too often wanting and the recruit gets little idea of the profession as a whole. Hence the increased necessity of discussing the problems and ideals of the profession in draftsman and student clubs and in the architectural schools.

After the formation of the American Institute of Architects in 1857 there gradually came about a crystallization of thought on matters affecting the profession and its larger objectives and as a consequence there has for years been growing up a series of documents on professional practice known as the "Ethical Documents of the American Institute of Architects." These are unique and authoritative as well as comprehensive and succinct statements, which have had considerable influence outside of Institute circles. They are available to all practitioners and students. Successive committees of the Institute have worked devotedly to produce and clarify these documents.

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In them are defined the responsibilities of the architect to those he serves and to the contractor, as well as to other architects.

EDUCATION IN PROFESSIONAL RELATIONS

The Institute was quick to see that it must concern itself not only with practice but also with education. The Committee on Education has with increasing understanding coöperated with the schools. Special sessions of the Institute conventions have been devoted to education, exhibitions of students' and architects' work have been held, the leading schools recognized, and medals awarded to promising students.

The aims and activities of the Institute and the subjects included in the Institute documents are now discussed in one form or other in practically every architectural school, but with varying emphasis. In some, the curriculum is so overcrowded that little time can be allowed for such discussion. Where an entire course in professional relations is permissible, the titles "Professional Practice," "Professional Relations," "Specifications and Practice," "Business Law," "Business Administration," "Contracts," and the like are frequently used and "Ethics" is formally discussed as part of the course.

This is one of the fields in which the visiting lecturer can do most effective work and such lecturers alone give the instruction in one school; in others, visiting lecturers share the instruction with regular instructors. An examination is given at the close of such a course. In two schools, but one and four lectures respectively are given to the class about to graduate. Again, where no special course is given, the professor of architecture discusses professional relationship at meetings of the student societies or as part of other class instruction. In two schools, the freshmen hear about it and the subject is constantly kept before the students. Where the subject is not actually taught, it is proposed to give formal instruction very soon.

One of the school heads to whom the writer wrote to learn what was being done in the institution of which he has charge, after referring to bad conditions in his particular state, said: "It is a big problem, but we are making a beginning and the next generation will feel the effect."

The essence of the Institute documents is given in the "Circular of Advice" and the "Canons of Ethics," both of which are printed in full in this volume.[1] The fundamental thought of these is the maintenance of truly professional relations by the architect to the owner and the contractor; while employed and paid by the owner and remaining loyal to him, the architect, as interpreter of the conditions of the contract and judge of its performance, must retain impartiality in order to be just to the contractor. Fairness to other architects, advertising, non-participation in improper competitions, duties to students and draftsmen and to the public and building authorities, professional qualifications and the architect's status are briefly summarized in the above documents and in the syllabi of some of the schools, as is also the gist of the "Circular of Advice on Architectural Competitions," "Disciplinary Rules" and the "Schedule of Charges," the business forms, general conditions for specifications, and the form of contract. Most of these are discussed in some measure in the schools, but there is considerable room for more systematic and thorough-going attention to them.

In one school critical and other

[1] *See* page 277.

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articles bearing on the profession and architectural education are read and discussed by the senior class to give students another angle of current thought. In two schools summer office work is required and two summer vacations must be spent in this way before the diploma is granted. Students thus get some insight into office routine, profit more by class instruction and, upon graduation, more easily get a start as draftsmen.

At least one division of the architectural curriculum is of particular worth in combining technical knowledge with more general values. In architectural history there is not only the great chain of human events reflected in monuments but high ideals of performance, distinguished personalities and extraordinary examples of achievement. Devotion, self-sacrifice and genius are all found here. Like architectural design, this is one of the truly inspirational subjects of architectural teaching.

To students the wide field of effort of the Institute also needs to be interpreted, as it does to some who never attend a convention and thus fail to grasp the reality and vitality of the organization. Its purpose is best demonstrated in the manifold activities reflected at the annual convention, at which time all the many standing and special committees report. It would be a splendid experience for students to sit through such sessions and thus learn what a large number of busy men in all parts of the country are unselfishly contributing through committee activities to the evolution of the Institute ideal and to giving it practical effect.

ADJUSTMENT TO THE PROFESSION

It has been said above that in some schools little attention is given to "professional practice" because the curriculum is overcrowded. In the so-called four-year courses in architecture there is little time available for cultural and scientific subjects in addition to essential preparatory and technical work. Some hold, moreover, that given a reasonably broad collegiate and technical training, the graduate will, while getting practical experience prior to independent practice, readily come to grasp the principles involved in such practice with the help of the very concrete, definitely expressed documents published by the Institute.

The entire professional student career is obviously one of adjustment to the profession. Its obligations are constantly kept before him; the bearing of each principle and technical topic on actual circumstances is carefully discussed. If the school cannot anticipate the actual experience of the individual it can and must help train and form him, strengthen his convictions for the time of struggle and doubt, and place him in the larger currents of thought. Although the college period has among its drawbacks, in the minds of ardent realists, the keeping of the student away from actual business problems and life, it has, derived from this, the very advantage that it may help form character which will help build a better world. Idealism certainly finds one of its strongholds in our institutions of learning. The fundamental ideal of the college is, after all, to increase resource and power; to develop men, to train them for good citizenship rather than narrow vocationalism or professionalism. They must be able to do their elected work, but they must also be prepared to give whole-hearted coöperation to the furtherance of civic, state and national well-being.

To the college period the student comes more definitely influenced by standards of private than of public life. His reactions to questions of

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honesty are already largely formed. During this period he changes from boyhood to manhood and receives a better understanding of life and the relation of the individual to it. If he can give time to a fair amount of liberal or cultural studies, he will more readily understand human relations and learn to distinguish ethical values. If, however, he immediately enters the customary limited professional course of but four years in architecture based on high school training, thus allowing very little time for cultural studies, the likelihood of his having a good general conception of the normative field is greatly lessened, for his chief preoccupation will be to make a practical success as soon as possible after graduation.

The group trained as first suggested through its analysis of form, character and events, study of literature, sociology, economics, political science, law and philosophy in its various forms including ethics, needs little in the field of professional ethics. These men come from the university with a fairly good understanding of human relations and may be trusted in their relations to society or a specific group, professional or otherwise. For the second group a discussion of the ideals of the profession is much more needed. In any case, the institution can only send out its graduates with the hope that in an age in which so much has been commercialized they will distinguish values and keep up to the highest possible mark and that they will help form an opinion which will raise the general standard of performance.

After graduation those who have the means will in increasing numbers go abroad for study and travel before entering an architect's office for a period of apprenticeship and experience before becoming practitioners.

CONDITIONS OF ENTRANCE TO PRACTICE

Independent practice in former years depended merely on securing some kind of commission or client but in at least twenty-two of our states men must now qualify for practice under registration laws. The young architect thus receives formal recognition by the state with a certain measure of confidence on the part of the public, as in the case of the doctor and the lawyer. In some states candidates for the examination must have two or three years' experience under an architect in addition to a diploma. The Institute has been very conservative on this question and not until three years ago did it give its support to the principle involved. In the minds of many, such laws provide the best means for protecting the public against those utterly lacking in fitness and training for even the lesser responsibilities and smaller problems of the architect. Such laws have very great possibilities for good, have been in effect long enough to demonstrate real value, and give students an objective similar to that of other recognized professions.

The architectural schools have long realized the necessity for higher standards of admission and graduation. At the universities they are directly in touch with the higher requirements effective for law and medicine and have recently won the support of the Institute for longer courses which are to be given effect in the near future. To encourage sound effort, the Institute has for some years awarded a medal annually to that graduating student of each of the "recognized" schools who has stood highest in his class throughout the duration of the course. A number of architects have been able to provide resident scholarships for deserving students and foreign travelling

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scholarships to create an interest in higher artistic achievement through a first-hand acquaintance with master works. Much more can and should be done in this direction, for every architectural student should know at first hand some of the great works of the artistic field abroad, not only in architecture but in painting, sculpture, gardening and city planning.

EXTRA-CLASSROOM FORCES IN ETHICAL TRAINING

The sense of individual responsibility is developed by allowing students opportunities for activities outside of class work; thus they begin as class officers, serve on committees or student publications, engage in athletics, debates, entertainments, and the like. Such activities develop initiative and a knowledge of men and affairs which are of great value and mean much to the college student. Most of his life is spent outside the classroom, away from the faculty, and thus his associates, amusements, club or fraternity connections have much to do with shaping his ideals. In most cases he retains the religious affiliations made at home and where this is so, a potent constructive force exists for good, probably stronger in so-called denominational institutions than in the others. Practically every architectural school has its student architectural society with its list of speakers, architectural and otherwise, while there are two national architectural fraternities, the members of which have club houses managed by students at their respective institutions, as do certain other professional student groups. There are also two national honor fraternities for architectural students, also under student control and open only to a certain percentage of the students on the basis of high scholarship, a qualification which demonstrates the effect of student initiative in the recognition of good personality and work.

In institutions where the honor system prevails, where the students themselves undertake supervision of examinations, we have another positive force for good. It will be gratifying to some to know that students have been known to vote down the honor system for examinations, since the men felt that they were on their honor continuously! In some colleges, under such a system, students offending against the code are tried by a student honor committee and if found guilty are dismissed from college by that committee; in other institutions, the findings of the student committee are reported to the faculty concerned, which acts on the recommendation of the honor committee. Nothing can be finer than the willingness of students to accept such a responsibility and nothing will better prepare them for some of the burdens of professional life.

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Codes of Ethics for the Teaching Profession

By George Gailey Chambers, Ph.D.
University of Pennsylvania, Chairman of the Ethics Commission of the Pennsylvania State Education Association

THE professions exist for the purpose of rendering service to humanity. The service to be rendered by the teaching profession is *to assist in preparing human beings in their younger periods of life so that they may be equipped mentally, morally and physically to live in the most serviceable manner possible during the whole of life.* The rendering of this type of service is not to be done exclusively by the teaching profession. The home is, or should be, the most efficient co-partner in rendering this service. The church should be a close second to the school and the home. Various social organizations and activities also assist in this service.

The teaching profession consists of a group of men and women trained and organized for the rendering of that special service to humanity, and no man or woman is worthy of membership in this profession unless he is thoroughly imbued with a determination to render the service for which the profession exists, even if, at times, it means personal sacrifice. From the ethical point of view, the fundamental qualities of the worthiness of men or women to be in the teaching profession are an unadulterated feeling of loyalty to the purpose of the profession and a thorough determination to render the service required. This test should apply to all alike, even the very beginner in the service who may anticipate that her tenure may be short. The profession should strongly object to the entrance of anyone who is deliberately using it merely as a stepping-stone to some other profession or occupation, unless that occupation be motherhood. Moreover, when the obligations of motherhood have been satisfied, the mother who was previously trained as a teacher, should be welcomed into active service in the profession. She has probably been much improved in her qualifications as a teacher by her experience as a mother. Her services are needed in the profession. Why should she wait until she becomes a widow before returning to active service?

Entrance Standards

The mode of entrance into the teaching profession is not nearly as uniform as the mode of entrance at present into the medical profession, which in that regard has the most nearly uniform standards of all the professions. On this point, however, the teaching profession will compare very favorably with the other professions with the possible exception of law. The vast majority of the members of the teaching profession, made up of those in the several public school systems, enter the profession by meeting definite requirements laid down by the several states. Unfortunately it is still true that the minimum requirement for entrance is much too low, and one of the first duties of the profession is to take steps to increase the entrance standards. It is encouraging to note that the last few years have seen much improvement in this regard; notwithstanding the great increase in the demand for teachers.

One of the most hopeful signs in the profession is the increased emphasis upon professional training. The tendency, as far as public school service is concerned, is to make entrance into

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the profession conditional upon the successful completion of a course of professional training in some professional school. There is even some indication that professional training is being considered as of value when selections are being made for new instructors in some of our colleges and universities.

The lack of uniformity in the modes of entering the profession have made it difficult to instill into the prospective teacher ideals of professional ethics. In fact in hundreds of cases in the past no sense of professional obligation was existent.

ORGANIZATIONS

When it comes to organizations made up of members of the profession we find them very numerous. We have organizations by states, by counties and by local districts; we have organizations on the basis of the subjects taught; we have organizations on the basis of the kind of school or college in which the members teach; for example, organizations of teachers in private preparatory schools, or even of teachers in schools of a given religious denomination. We have organizations made up of teachers in urban universities, for instance. Every few months we learn of a new organization whose members consist of teachers.

That organization of the teaching profession which without doubt should be placed first in our country is the National Educational Association, and it seems to me that that is the organization which will inevitably be the most influential in bringing the profession up to the idcal standards of a profession; but doubtless many other associations will play an important part. In the college and university portion of the profession, the American Association of University Professors seems to bid fair to do much toward bringing its members up to ideal professional standards.

EXISTING CODES

At least twelve codes of ethics for teachers have been formulated. There may be others which have not come to my notice. Some of these have been prepared by local clubs; for example, the code prepared by the Barnard Club in Providence, Rhode Island. Others have been prepared by teacher's associations which cover certain definite geographical districts, not following state or local municipal lines; for example, the code prepared by the Monongahela Round Table in the northern part of West Virginia. Some have been prepared by students in graduate university courses in education, such as the one prepared at the University of Utah. Several have been prepared by committees of state associations for teachers and afterwards approved by those associations. The state associations in the following states have approved codes: California, Michigan, Mississippi, New Jersey, Pennsylvania, New York and Oregon. Of these state codes, that prepared by Michigan is the most recent. The one by Pennsylvania is next. The Michigan Code is avowedly in a very tentative form.

The Pennsylvania Code was approved by the State Education Association in December, 1920. Over three years was spent by the committee in preparing it. In the process of preparation, the committee studied all of the other available codes for the profession, as well as the codes of other professions, including medicine, law, architecture and engineering. The Pennsylvania Code is given in full in the appendix of this volume.[1] The code of ethics

[1] *See* "A Code of Ethics for the Teaching Profession Adopted by the Pennsylvania State Education Association," page 281.

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adopted by the State Association of Pennsylvania is printed as typical of those adopted by other states. A code of ethics was adopted by the New Jersey State Teachers' Association in December, 1914. Other codes have been adopted as indicated on page 122, but the Pennsylvania code was chosen for printing in full because it is both recent in adoption and fairly complete in details. The Bureau of Education, Washington, D. C., has published a list of codes for teachers, with references to educational periodicals.

There naturally arises the question as to the relation of the particular code of ethics for a profession to ethical principles in general. That question is probably best answered by saying that a code of ethics for a profession is merely an application of the general principles of ethics to the special obligations, rights and privileges of the profession, having always in mind the special service for which the profession exists. In view of the special relationship between the teaching profession and the youth of our country, it is of the highest importance *that each member of the profession shall have achieved in himself a character worthy of daily presentation to those being taught.*

FIRST PRINCIPLE OF THE TEACHER'S CODE

The highest obligation of every member of the profession is due to those who are being taught, either by him directly or by the school system in which he holds a place. This is the fundamental ethical principle of the profession. Putting it negatively, this principle states that the teacher's highest obligation is not to the board of school directors, or to the superintendent of the school, or to the principal, or to himself, or to the parents of his pupils. Every disputed or doubtful point in connection with any other ethical principle should be settled by determining which mode of settlement best meets the obligation asserted in this first principle. This principle should be considered equally applicable to teachers in the colleges and universities.

COMPENSATION

In every profession some of the most troublesome ethical problems arise in connection with the subject of compensation and the related subject of appointments, promotions and contracts. It is unquestionably the urgent duty of the profession to demand adequate compensation, since only when there is adequate compensation can the profession meet its obligation to those being taught. Individuals may, it is true, render the highest type of service with inadequate compensation, but in order that the profession as a whole may render a high type of service, men and women of high ability must be attracted to it. Moreover, when in the profession, they must be financially able to do the various things necessary for efficient service. For example, they must be able to purchase books and periodicals, to travel and, especially, to attend meetings of the various societies in the profession. Furthermore, they must be able to live in their respective communities in such a way as to command respect and recognition by the community. The Michigan Code says, "It is unprofessional for a teacher to sign a yearly contract to teach for a wage that is not sufficient to cover living expenses for twelve months."

PROMOTIONS AND CONTRACTS

Many a teacher, principal or superintendent is tempted to use an unethical procedure when the question of an appointment or promotion is involved, because then his personal

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comfort and inconvenience are most prominently before him. Personal comfort is a secondary matter in the mind of any real altruist. This remark applies with equal if not greater force to the superintendent who is tempted to stand in the way of a desired advancement so as to avoid the inconveniences incident to the replacement of teachers. It is a short-sighted policy to argue that the best interests of the children will be served by preserving the *status quo*.

Another point of temptation arises when the acceptance of an opportunity for advancement involves the breaking of a contract. No teacher, or anyone else, should ever violate a contract. Unless the consent of the employing body is obtained, thereby releasing the obligation, the contract should be fulfilled. The principle just stated should suggest to the wise teacher that care should be exercised as to the terms in a contract before the contract is signed. In particular, he should see that the contract contains a reasonable provision for its termination upon giving proper notice.

CRITICISM OF ASSOCIATES

Under the head of criticisms of associates, the teaching profession might well take note of the corresponding principle in the code of the medical profession. In the medical code we find the following: "When a physician does succeed another physician in charge of a case, he should not make comment on, or insinuations regarding, the practice of the one who preceded him." In the medical profession, the situation where one physician succeeds another in charge of a case is the unusual situation, whereas, in the teaching profession, it is the regular procedure. The only way in which a teacher with a class above the first grade can obtain new pupils is by receiving the pupils previously taught by someone else. The practice of condemning the previous teachers of one's pupils is very common. It is probable that most of the deficiencies in the pupils are due to the great individual innate differences found in any considerable group of human beings, and that the differences which a teacher finds in a new group of students are almost certainly not due to any failure on the part of the preceding teacher.

Teachers who are aroused by the presence of deficient pupils in their classes seem to forget that much more skill is necessary to teach such pupils successfully than to teach the ordinary pupils. How much better it would be to recognize the presence of deficient pupils as a challenge to one's teaching ability. Might not this attitude save many a freshman in college? This does not imply that there should be in the same classroom for instruction purposes, a group varying widely in ability to take up the work in hand. Whenever pupils are classified on the basis of ability, the real teacher will feel it a compliment to be asked to take the weaker section. The demand upon teaching ability will be greater.

PRINCIPLES PECULIAR TO THE PENNSYLVANIA CODE

The Pennsylvania Code contains two sets of principles covering problems apparently untouched by the other codes which the writer has seen. I refer to the paragraph concerning democracy in the development of school plans, and the paragraph referring to the ethical factors entering into the supervision of classroom work.

The question as to the extent of the participation of teachers in the development and execution of school plans and policies is a live one. In this connection, it should be remem-

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bered that neither the teacher nor the superintendent has any professional rights except those which grow out of the obligations of the profession to those being taught. The positive ethical principle here is that the superintendent, principals and teachers should collaborate and coöperate so as to make the schools as efficient for the good of the child as possible. This carries with it the right of teachers, even by collective action, to demand the privilege of such collaboration and coöperation, if it is not voluntarily granted. Such a democratic process of determining school policies will often lead to conclusions which are not considered wise by some members of the school system. In such cases, however, the obligation rests strongly upon all in the school system to support the school's policies so long as they continue to hold their positions. That is, when a policy is finally determined it should be loyally supported by all. This principle of democratic coöperation and collaboration should also be applied to instruction in our colleges and universities.

SUPERVISORY OFFICERS AND TEACHERS

In considering the relations between supervisory officers and teachers, it must be kept in mind that the first function of the supervisory officer, whether the superintendent or someone under him, is to help the teachers to become more successful teachers. The determination of the best methods of supervision is very important to every person in the school system. Is this not a problem upon which the teachers have a right to collaborate, remembering that the purpose of supervision is helpfulness? Cannot a plan be devised and operated whereby kindly constructive criticisms of the superintendent, supervisors and principals might be formulated by the supervised group? There need not be anything in such a procedure to hurt either the dignity or usefulness of the superintendent, supervisor or principal. The superintendent is not an autocrat, but merely one member of the profession who for the time being is given particular duties and responsibilities. Why should not the collective wisdom of the people in the school system be used to help him meet those special duties and responsibilities?

RELATION TO PUBLISHERS AND SUPPLY HOUSES

There is one other type of situation which leads to difficult ethical problems; namely, the relation of superintendents, principals and teachers to publishers and supply houses. The question arises in connection with superintendents or other members of the profession who have textbooks on the market or who have teaching devices of one kind or another for sale through supply houses. The statement of the Pennsylvania Code on this subject is as follows:

> No member of the profession should act as an agent, or receive a commission or royalty or anything else of value, for any books or supplies in the selection of which he exercises official decision.

This is a rather moderate statement and may not go far enough. Some students of this question would impose much narrower restraints. In at least one state every member of any of the school systems of the whole state is forbidden by law to accept royalties from textbooks used anywhere in that state. Of course, it is very important that there should be a sufficient incentive to induce the best schoolmen to write the best possible textbooks and evidently such drastic legislation would greatly re-

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duce one important incentive. However, the writer of a textbook in any particular field is probably not an unbiased judge in passing upon the relative merits of the textbooks in that field, and it seems that merely the waiving of the royalty, as required in the Pennsylvania Code, does not go quite far enough. Would it not be wise for him to refer the decision to someone who would undoubtedly be recognized as an unbiased judge, even though he may himself feel entirely unbiased in the matter and may have waived all rights to royalty? The full confidence of others in his integrity is worth much.

COMMISSION ON PROFESSIONAL ETHICS

The Pennsylvania Code, as far as the writer is aware, is the only one which carries with it the establishment of a permanent commission on professional ethics. Such a commission is now in existence in the state of Pennsylvania and is functioning. The duty of this commission is to study the various problems of professional ethics arising from time to time, to give the inquiring members of the profession its interpretation of the meaning of the various principles in the code, to arrange for investigations rendered advisable in connection with ethical problems, and to recommend amendments and additions to the code. If similar commissions could be established in other states, and if there could be established a national commission to which appeals from the state commissions might be made, a national code of ethics, with an accompanying body of decisions and interpretations would gradually be established. The National Educational Association would seem to be the proper organization to take the first steps in this direction. Probably no one thing would go farther toward the securing of proper recognition of the teaching profession than the approval by the National Educational Association of a national code of ethics and the establishment under the auspices of that association of a national commission on professional ethics.

Of course, the mere formulation of codes of ethics will not accomplish much unless there is in some way implanted in every new teacher a sense of individual responsibility for maintaining good professional standards. This is the task of state departments of education, of superintendents of schools, and especially of the faculties of teacher's training schools. There is need of a short course, possibly two or three weeks in length, in every teachers' training school, bringing individually to each student the ethical obligations about to be assumed when the student enters the teaching profession, and warning against the special temptations to unethical conduct that so frequently present themselves.

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The Principles of Academic Freedom and Tenure of the American Association of University Professors

By F. S. DEIBLER
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THE American Association of University Professors was organized in January, 1915. The motive for forming the organization was the feeling that there was a distinct need for an association of college and university teachers through which their professional interests might find expression. Most college and university teachers were members of the learned societies in their respective fields, but it was felt that these bodies did not adequately meet the needs. In the first place, in these associations, time and energy was devoted solely to the discussion of scientific topics and the extension of scientific knowledge along specialized lines. In the second place, the large number of these scientific bodies prevented any group consideration of the professional interests of college and university teachers. There was no body that could express these interests comparable with the American Bar Association for the lawyers or the American Medical Society for the physicians of the country. The American Association of University Professors was formed to fill this need, and to "enhance the security and dignify the scholar's calling throughout our country."

Membership was limited at first to teachers or research students who had had ten years' experience in teaching or investigation in connection with some college or university of recognized standing. The condition for membership was changed at the annual meeting in 1920 so that three years' experience is now required. The evidence that the Association is filling a need may be seen in the continued growth in membership, which now numbers 4,046, representing 183 institutions.

ORGANIZATION OF COMMITTEES

During its first year of existence the new Association began the study of two closely related subjects, that have continued to occupy a large amount of the time and energy of the organization—namely, the questions of academic freedom and tenure, and the relation of the faculty to the administrative and governing bodies of colleges and universities. The question of academic freedom and tenure was taken up at once. In fact, some preliminary thought had been given to this issue by a joint committee of nine, appointed in December, 1913, and representing the American Economic Association, the American Sociological Society and the American Political Science Association. At the first meeting (January, 1915) of the American Association of University Professors it was decided to take up the problem of academic freedom and the President of the Association was authorized to appoint a committee of fifteen, which should include, so far as the members were eligible, this joint committee of nine. The committee of fifteen became Committee "A"—the Committee on Academic Freedom and Tenure.

This Committee was immediately faced with the consideration of a number of specific cases of alleged infringement of academic freedom. Eleven cases were laid before it the first year. Because of their significance it was decided to make special inquiries into five of these cases. Four of the other cases were brought

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to the attention of the specific scientific association, to which the individual affected belonged. In the five cases investigated, the Committee decided to appoint special committees of inquiry and to advise with these as to questions of principles and on methods of procedure, a practice that has continued to govern the investigations conducted under the permanent committee on this subject (Committee A). This left the parent committee free to consider the whole problem of academic freedom and formulate a report thereon. The report was submitted by the Committee and was accepted and approved at the annual meeting in December, 1915. This report constitutes the declaration of principles of the Association on the subjects of academic freedom and academic tenure. In investigating specific cases, the subcommittees making the inquiry have been instructed to consider the facts in the light of the principles contained therein. Because of the importance attached to these principles by the Association, an extended abstract of this report will be given here.

WHAT IS "ACADEMIC FREEDOM"?

"The term 'academic freedom,'" says the report, "has traditionally had two applications—to the freedom of the teacher and to that of the student, *Lehrfreiheit* and *Lernfreiheit*. It needs scarcely be pointed out that the freedom which is the subject of this report is that of the teacher. Academic freedom in this sense comprises three elements: freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extramural utterance and action. The first of these is almost everywhere so safeguarded that the dangers of its infringement are slight. It may therefore be disregarded in this report. The second and third phases of academic freedom are closely related, and are often not distinguished. The third, however, has an importance of its own, since of late it has perhaps more frequently been the occasion of difficulties and controversies than has the question of freedom of intra-academic teaching.

"All five of the cases which have recently been investigated by committees of this Association have involved, at least as one factor, the right of university teachers to express their opinions freely outside the university or to engage in political activities in their capacity as citizens. The general principles which have to do with freedom of teaching in both these senses seem to the Committee to be in great part, though not wholly, the same. In this report, therefore, we shall consider the matter primarily with reference to freedom of teaching within the university, and shall assume that what is said thereon is also applicable to the freedom of speech of university teachers outside their institutions, subject to certain qualifications and supplementary considerations which will be pointed out in the course of the report.

"An adequate discussion of academic freedom must necessarily consider three matters:

(1) The scope and basis of the power exercised by those bodies having ultimate legal authority in academic affairs.

(2) The nature of the academic calling:

(3) The function of the academic institution or university."

THE POWER OF THE TRUSTEES

On the subject of academic authority, the report recognizes the trustees as the "ultimate repositories of power," but raises the question of the responsibilities which this power imposes

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upon the trustees as it affects the question of academic freedom. On this latter point the report differentiates between two types of institutions, (a) proprietary institutions, and (b) those in the nature of a public institution. In connection with the first type, the report recognizes the responsibilities imposed upon the trustees, if an institution is founded to promote a particular religious, political or economic doctrine. In such institutions the trustees have a "right to subordinate everything to that end." Such institutions "do not, at least as regards one particular subject, accept the principles of freedom of inquiry, of opinion and of teaching; their purpose is not to advance knowledge by the unrestricted research and unfettered discussion of impartial investigators, but rather to subsidize the promotion of the opinions held by persons, usually not of the scholar's calling, who provide the funds for their maintenance." The Committee holds that "genuine boldness and thoroughness of inquiry, and freedom of speech, are scarcely reconcilable with the prescribed inculcation of a particular opinion upon a controverted question."

Concerning the second type of institutions, the report holds that the duty of the trustees is plain. They are trustees for the public and therefore can not assume the proprietary attitude and privilege if they are appealing to the general public for support. Trustees of such universities or colleges have no moral right to bind the reason or conscience of any professor. "It follows that any university which lays restrictions upon the intellectual freedom of its professors proclaims itself a proprietary institution, and should be so described when it makes a general appeal for funds."[1]

[1] In his annual report President Butler of Columbia makes the following statement concerning the attempt to control the educational policies of universities. He says, "Under no circumstances should, or can, any self respecting university accept a gift upon conditions which fix or hamper its complete freedom in the control of its own educational policies and activities. To accept a gift on condition that a certain doctrine or theory be taught or be not taught, . . . is to surrender a university's freedom and to strike a blow at what should be its characteristic independence. Indeed, any donor who would venture to attempt to bind a university

NATURE OF THE ACADEMIC CALLING

On the nature of the academic calling, the report has this to say:

"If education is the cornerstone of the structure of society and if progress in scientific knowledge is essential to civilization, few things can be more important than to enhance the dignity of the scholar's profession with a view to attracting into its ranks men of the highest ability, of sound learning, and of strong and independent character. This is the more essential because the pecuniary emoluments of the profession are not, and doubtless never will be, equal to those open to the more successful members of other professions. It is not, in our opinion, desirable that men should be drawn into this profession by the magnitude of the economic rewards which it offers; but it is for this reason the more needful that men of high gifts and character should be drawn into it by the assurance of an honorable and secure position, and of freedom to perform honestly and according to their own consciences, the distinctive and important function which the nature of the profession lays upon them.

"That function is to deal at first hand, after prolonged and specialized technical training, with the sources of knowledge; and to impart the results of their own and of their fellow-specialists' investigations and reflections, both to students and to the

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general public, without fear or favor. The proper discharge of this function requires (among other things) that the university teachers shall be exempt from any pecuniary motive or inducement to hold, or to express, any conclusion which is not the genuine and uncolored product of his own study or that of fellow specialists. Indeed, the proper fulfilment of the work of the professorate requires that our universities shall be so free that no fair-minded person shall find any excuse for even a suspicion that the utterances of university teachers are shaped or restricted by the judgment, not of professional scholars, but of inexpert and possibly not wholly disinterested persons outside of their ranks. The lay public is under no compulsion to accept or to act upon the opinions of the scientific expert whom, through the universities, it employs. But it is highly needful in the interests of society at large, that what purports to be conclusions of men trained for, and dedicated to, the quest for truth, shall in fact be the conclusions of such men, and not echoes of the opinions of the lay public, or of the individuals who endow or manage universities."

FUNCTION OF THE ACADEMIC INSTITUTION

On the function of the academic institution, the report sets forth the following:

"The importance of academic freedom is most clearly perceived in the light of the purposes for which universities exist. These are three in number:

A. To promote inquiry and advance the sum of human knowledge.

B. To provide general instruction to the students.

C. To develop experts for various branches of the public service.

"Let us consider each of these. In the earlier stages of a nation's intellectual development, the chief concern of educational institutions is to train the growing generation and to diffuse the already accepted knowledge. It is only slowly that there comes to be provided in the highest institutions of learning the opportunity for the gradual wresting from nature of her intimate secrets. The modern university is becoming more and more the home of scientific research. There are three fields of human inquiry in which the race is only at the beginning: natural science, social science and philosophy and religion, dealing with the relations of man to outer nature, to his fellow men, and to the ultimate realities and values. In natural science, all that we have learned but serves to make us realize more deeply how much more remains to be discovered. In social science, in its largest sense, which is concerned with the relations of men in society and with the condi-

either as to the form or the content of its teachings or as to its administrative policies, would be a dangerous person. Unless the public can have full faith in the intellectual and moral integrity of its universities and complete confidence that they direct and are responsible for their own policies, there can be no proper and helpful relationship between the universities and the public. A university may accept a gift to extend and improve its teaching of history, but it may not accept a gift to put a fixed and definite interpretation good for all time, upon the facts of history. A university may accept a gift to increase the salaries of its professors, but it may not accept a gift for such purpose on condition that the salaries of professors shall never exceed a stated maximum, or that some professors shall be restricted as others are not in their personal, literary or scientific activities. No university is so poor that it can afford to accept a gift which restricts its independence, and no university is so rich that it would not be impoverished by an addition to its resources which tied the hands of its governing boards." (Annual Report, 1919, *pp.* 7, 8.)

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tions of social order and well being, we have learned only an adumbration of the laws which govern these vastly complex phenomena. Finally, in the spiritual life, and in the interpretation of the general meaning and ends of human existence and its relation to the universe, we are still far from a comprehension of the final truths, and from a universal agreement among all sincere and earnest men. In all these domains of knowledge, the first condition of progress is complete and unlimited freedom to pursue inquiry and publish its results. Such freedom is the breath in the nostrils of all scientific activity.

"The second function—which for a long time was the only function—of the American college or university is to provide instruction for students. It is scarcely open to question, that freedom of utterance is as important to the teacher as it is to the investigator. No man can be a successful teacher unless he enjoys the respect of his students, and their confidence in his intellectual integrity. It is clear, however, that this confidence will be impaired if there is suspicion on the part of the students that the teacher is not expressing himself fully or frankly, or that the college and university teachers in general are a repressed and intimidated class who dare not speak with that candor and courage, which youth always demands of those whom it is to esteem. The average student is a discerning observer, who soon takes the measure of his instructor. It is not only the character of the instruction, but also the character of the instructor that counts; and if the student has reason to believe that the instructor is not true to himself, the virtue of the instruction as an educative force is incalculably diminished. There must be in the mind of the teacher no mental reservation. He must give the student the best of what he has and what he is.

"The third function of the modern university is to develop experts for the use of the community. For if there is one thing that distinguishes the more recent development of democracy, it is the recognition by legislators of the inherent complexities of economic, social, and political life and the difficulty of solving problems of technical adjustment without technical knowledge. The recognition of this fact has led to a continually greater demand for the aid of experts in these subjects, to advise both legislators and administrators. The training of such experts has, accordingly, in recent years, become an important part of the work of the universities; and in almost every one of our higher institutions of learning the professors of the economic, social and political sciences have been drafted to an increasing extent into more or less unofficial participation in the public service. It is obvious that here again the scholar must be absolutely free not only to pursue his investigations, but to declare the results of his researches, no matter where they may lead him or to what extent they may come into conflict with accepted opinion. To be of use to the legislator or administrator, he must enjoy their complete confidence in the disinterestedness of his conclusions.

"It is clear, then, that the university cannot perform its threefold function without accepting and enforcing to the fullest extent the principle of academic freedom. The responsibility of the university as a whole is to the community at large, and any restriction upon the freedom of the instructor is bound to react injuriously upon the efficiency and morale of the institution, and therefore ultimately upon the interest of the community."

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CORRELATIVE OBLIGATIONS OF THE SCHOLAR

The report recognizes that rights impose duties and that academic freedom for the teacher entails correlative obligations. On this subject the report declares as follows:

"The claim to freedom of teaching is made in the interest of the integrity and of the progress of scientific inquiry; it is, therefore, only those who carry on their work in the temper of the scientific inquirer who may justly assert this claim. The liberty of the scholar within the university to set forth his conclusions, be they what they may, is conditioned by their being conclusions gained by a scholar's method and held in a scholar's spirit; that is to say, they must be the fruits of competent and patient and sincere inquiry, and they should be set forth with dignity, courtesy, and temperateness of language. The university teacher, in giving instruction upon controversial matters, while he is under no obligation to hide his own opinion under a mountain of equivocal verbiage, should, if he is fit for his position, be a person of a fair and judicial mind; he should, in dealing with such subjects, set forth justly, without suppression or inuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue; and he should above all, remember that his business is not to provide his students with ready-made conclusions, but to train them to think for themselves, and to provide them access to those materials which they need if they are to think intelligently."

The report holds that the power to determine departures from the scientific spirit and method should be vested in the academic profession. "Intervention by any other bodies can never be exempt from the suspicion that it is dictated by other motives than zeal for the integrity of the science." However disagreeable the task, the Committee held that the obligation to rid the profession "of the incompetent and the unworthy and to prevent the freedom which it claims in the name of science from being used as a shelter for inefficiency, for superficiality or for uncritical and intemperate partisanship" must be assumed by the profession. A special obligation rests upon the teacher of immature students. In such cases scientific truth should be presented with discretion and with consideration for the students' preconceptions and traditions, and with due regard to character-building. The teacher should not take unfair advantages of the students' immaturity to indoctrinate him with the teacher's own opinions before the student has had an opportunity to examine other opinions or develop sufficient judgment to formulate independent opinions of his own. The teacher should strive to stimulate an intellectual interest and develop the habit of patient and methodical consideration of both sides of every controverted question. On the question of "class-room utterances," the Committee holds that these should be regarded as "privileged communications," since they are often designed to provoke opposition or arouse debate. Such utterances should not be made the basis of passing judgment on the positions held by the teacher.

EXTRA-MURAL UTTERANCES

In respect to extra-mural utterances, the report holds that academic teachers are under "peculiar obligations to avoid hasty or unverified or exaggerated

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statements and to refrain from intemperate or sensational modes of expression." But, subject to these restraints, it is not, in the opinion of the Committee, desirable that scholars should be debarred from giving expression to their judgment upon controversial questions, or that their freedom of speech, outside the university, should be limited to questions falling within their own specialty.[2] The Committee quotes with favor, a statement from a non-academic body that, "it is neither possible nor desirable to deprive a college professor of the political rights vouchsafed to every citizen."

In concluding its report, the Committee said:

"It is, it will be seen, in no sense the contention of this Committee that academic freedom implies that individual teachers should be exempt from all restraints as to the matter or manner of their utterances, either within or without the university. Such restraints as are necessary should in the main, your Committee holds, be self-imposed, or enforced by the public opinion of the profession. But there may, undoubtedly, arise occasional cases in which the aberrations of individuals may require to be checked by definite disciplinary action. What this report chiefly maintains is that such action cannot with safety be taken by bodies not composed of members of the academic profession. Lay governing boards are competent to judge concerning charges of habitual neglect of assigned duties on the part of individual teachers, and concerning charges of grave moral delinquency. But in matters of opinion, and of the utterance of opinion, such boards cannot intervene without destroying, to the extent of their intervention, the essential nature of a university—without converting it from a place dedicated to openness of mind, in which the conclusions expressed are the tested conclusions of trained scholars, into a place barred against the access of new light, and precommitted to the opinions or prejudices of men who have not been set apart or expressly trained for the scholar's duties.

"It is, in short, not the absolute freedom of utterance of the individual scholar, but the absolute freedom of thought, of inquiry, of discussion and of teaching, of the academic profession, that is asserted by this declaration of principles. It is conceivable that our profession may prove unworthy of its high calling, and unfit to exercise the responsibilities that belong to it. But it will scarcely be said as yet to have given evidence of such unfitness. And the existence of this Association, as it seems to your committee, must be construed

[2] President Lowell has this to say on this point: "In spite, however, of the risk of injury to the institution, the objections to restraint upon what professors may say as citizens seems to me far greater than the harm done by leaving them free. In the first place, to impose upon the teacher in a university restrictions to which the members of other professions, lawyers, physicians, engineers, and so forth, are not subjected, would produce a sense of irritation and humiliation. In accepting a chair under such conditions a man would surrender a part of his liberty; what he might say would be submitted to the censorship of a board of trustees, and he would cease to be a free citizen. . . . It is not a question of academic freedom, but of personal liberty from restraint, yet it touches the dignity of the academic career. . . . There is another (objection), not less weighty from that (standpoint) of the institution itself. If a university or college censors what its professors may say, if it restrains them from uttering something that it does not approve, it thereby assumes responsibility for that which it permits them to say. This is logical and inevitable, but it is a responsibility which an institution of learning would be very unwise in assuming." (Quoted in February–March 1918 *Bulletin of American Association of University Professors*, *pp.* 12–15.)

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as a pledge, not only that the profession will earnestly guard those liberties without which it can not rightly render its distinctive and indispensable service to society, but also that it will with equal earnestness seek to maintain such standards of professional character, and of scientific integrity and competency, as shall make it a fit instrument for that service."

ENFORCEMENT OF PRINCIPLES OF TENURE

Four measures were proposed by the Committee as necessary steps in putting the principles of its report into operation:

1. *Action by Faculty Committees on Reappointments.* It was held that official action relating to reappointments and refusals of reappointments should be taken only with the advice and consent of some board or committee representative of the faculty.

2. *Definition of Tenure of Office.* In every institution there should be an unequivocal understanding as to the term of each appointment; and the tenure of professorships, and associate professorships, and of all positions above the grade of instructor, after ten years of service should be permanent. In state universities, incapable of making binding contracts for more than a limited period, the governing boards should announce their policy with respect to the presumption of reappointment in the several classes of positions and such announcements should be regarded as morally binding. No university teacher of any rank should, except in cases of grave moral delinquency, receive notice of dismissal or refusal of reappointment, later than three months before the close of any academic year, and in the case of teachers above the grade of instructor, one year's notice should be given.

3. *Formulation of Grounds for Dismissal.* In every institution the grounds which will be regarded as justifying the dismissal of members of the faculty should be formulated with reasonable definiteness; and in case of institutions which impose upon their faculties doctrinal standards of a sectarian or partisan character, these standards should be clearly defined and the body or individual having authority to interpret them in case of controversy, should be designated.

4. *Judicial Hearings Before Dismissal.* Every university or college teacher should be entitled, before dismissal[3] or demotion, to have the charges against him stated in writing in specific terms and to have a fair trial on those charges before a special or permanent committee chosen by the faculty senate or council, or by the faculty at large. At such trial the teacher accused should have full opportunity to present evidence, and, if the charge is one of professional incompetency, a formal report upon his work should first be made in writing by the teachers of his own department and cognate departments in the university, and, if the teacher concerned so desires, by a committee of his fellow specialists from other institutions, appointed by some competent authority.

In all of the cases that have been investigated by the Association the specific facts found have been considered in the light of the principles set forth in this report. The practical proposals have likewise become the method approved by the Association for dealing with dismissal cases. The Association has striven to give these principles as wide publicity as possible through the discussions that have centered around the specific cases investigated.

[3] This does not refer to refusals to reappoint at the expiration of definite terms of office.

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THE FACULTY IN UNIVERSITY GOVERNMENT

The problem of putting these principles into effect is closely associated with the position taken by the Association upon the second question mentioned above, namely, the place and function of the faculty in university government. The report of Committee T, submitted at the annual meeting in 1920, may be said to set up a standard to be attained on this subject. On this problem there is by no means the same unanimity of opinion nor has the Association put itself on record in favor of a particular position, as has been done on the question of academic freedom and tenure. Committee T was appointed in 1917 and its report[4] contains not only the recommendations of the Committee but also the present practice in the leading institutions of the country. For the purposes of this article the specific recommendations of the Committee are of importance.

I. *Boards of Trustees and Faculties.* The Committee held that the faculty should be represented in some manner at regular or stated meetings of the board of trustees for the purpose of discussing general educational policies. The majority of the Committee favored a conference committee for this purpose rather than faculty members regularly elected to membership on the board of trustees.

II. *The President and the Faculty.* The President should be the educational leader and its chief administrative officer both with regard to the functions of the trustees and those of the faculty. Since the Committee held that the president should be more of an educational leader than an administrative expert, it was of the opinion that he should be chosen "for broad scholarship, insight into educational needs and problems and power of leadership, no less than for administrative skill." In the selection of the president, the Committee held that he should be nominated by a joint committee composed of trustees and faculty.

III. *Deans and the Faculty.* The Committee recognized the wide diversity of practice in the functions performed by deans. In the smaller institutions, he is chiefly a disciplinary officer; in institutions divided into schools for administrative purposes, he becomes the administrative head of the school or college. Recognizing the wide diversity of practice, the Committee laid down certain considerations on the functions of, and manner of choosing, deans as a basis for discussion rather than a proposal for acceptance. The significance of these propositions is the light they throw on the developing opinion among faculty members in regard to the form of organization of colleges and universities.

The propositions laid down by the Committee are as follows: The dean should be the chief administrative officer of the faculty of which he is a member. He should formulate and present to the faculty policies for its consideration. This duty does not imply any abridgment of the right of any member of the faculty to present any matter to the faculty. He should be responsible for the enforcement of admission requirements, for oversight of the work of students and be the ordinary medium of communication for all official business with the administrative and governing bodies. This latter proposition is not intended to abridge the right of the faculty in choosing representatives for special conferences with the trustees.

On the question of selection of deans the Committee proposed that a dean

[4] *Bulletin*, March, 1920.

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should be chosen by concurring action, in some form, of the faculty over which he shall preside, the president and the trustees. At the annual meeting in December the Association approved the proposition that a faculty should participate in some form in the selection of its administrative officers, including the president of the institution.

The relative merits of definite and indefinite tenure of the dean is considered in the report, but the Committee concludes that this question can be wisely decided only after a joint determination by the president, trustees and faculties what the duties and functions of a dean are.

IV. *The Faculty and Budget Making.* Here also wise procedure will differ in institutions of different size and kind. The procedure in a state university must differ somewhat from that in a privately endowed institution. But as a fundamental principle the Committee without exception was of the opinion that in all cases the faculty should have a recognized voice in the preparation of the annual budget. In larger colleges or universities this end can be best achieved through a budget committee elected by the faculty. The Committee held that some such plan "would tend to allay the discontent which so frequently arises from inequities in the distribution of the salary budget."

V. *The Faculty.* The faculty should be the legislative body for all matters concerning the educational policy of the university. In institutions consisting of more than one school there should be either a general faculty or an elected body representing all the faculties, for the determination of the educational policy of the university as a whole. Each faculty should determine its own voting membership, its rules of procedure, elect all standing committees and determine their functions, and should participate, through appropriate committees, in the selection of full professors and executive officers of departments.

Among the standing committees of the general faculty should be a judicial committee of a small number of members, one or more to be elected annually by the faculty. In the event of the proposed dismissal of a member of the instructing staff, on indefinite tenure, the member in question should have the right to full investigation by the judicial committee of the grounds alleged for the proposed action. Failure to sustain the charges before the committee should stop dismissal. The judicial committee should report its findings to the president and the board of trustees.

An investigation was made by Committee A and a report submitted to the annual meeting in Pittsburgh on the extent to which the principles of the Association have been adopted by the various institutions of the country. The information was collected by means of a questionnaire sent to the president or secretary of the local branch of the Association in those institutions which had organized a local group. Replies were received from fifty-four of the fifty-nine branches to which the inquiry was sent. The results of the investigation are of interest and may be summarized as follows:

REPORTS ON ADOPTION OF PRINCIPLES

In fourteen of the fifty-four institutions reporting, the general faculty exercises, either as a matter of definite rules or as a common administrative practice, some authority over the selection and promotion of the instructional staff or the development of the budget, thus exercising an influence

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over the broader educational policies that depend upon the distribution of available funds. In this list appear some of the largest and best known universities and colleges of the country.

But of more direct significance for the present purpose is the presence of faculty influence in dismissal cases. In thirteen of the fifty-four institutions, definite machinery has been set up for dealing with dismissal cases. In some instances the plans have been developed since the organization of the Association and, in one institution, as the direct result of an investigation conducted by the Association. Here again, we find some of the well-known colleges and universities. But in addition to the institutions that have set up a definite procedure for dealing with dismissal cases, it was found that this subject had received attention in twenty-one of the other institutions reporting. In other words, only twenty of the fifty-four institutions reporting admitted that the question of academic freedom and tenure had received no recent consideration by the faculty.

The report reaches the following conclusions:

(1) "There has developed a considerable faculty influence in the control of appointments and dismissals in the institutions studied. Among these are both large and small institutions; both state and endowed institutions. It would seem from the replies that there has been less attention in state than in endowed institutions. Certainly the most completely organized plans for exercising faculty influence in protecting professional standards of academic freedom and tenure appear in the endowed institutions. The problem is more difficult to deal with in a state university on account of the legal relations, and this may explain the difference found.

(2) "The declarations of this Association are gradually becoming recognized as reasonable standards to be attained. An examination of the statutory provisions that have been adopted in recent years will clearly reveal internal evidence of familiarity with the principles of this Association. . . . It would seem, then, that gradually and with no blare of trumpets, the Association has been a potent influence in formulating an opinion in respect to the proper professional standing of the instructional staff of our colleges and universities; in determining what protection is necessary to promote research and the promulgation of truth; what procedure in terminating contractual relations is in keeping with the vital interest of the teacher or research student, and the dignity of the institution."

The evidence shows that the Association is performing an important function in developing a wise public opinion on questions of academic freedom and tenure and in formulating principles and practices in keeping with the dignity of the academic profession.[5] While these two subjects mentioned in this article have occupied the major part of the energies of the Association to date, they do not exhaust the interests of the membership. These were the immediate questions to receive attention but the influence of the Association has been and will no doubt be, extended to other questions of vital concern to the profession as these may arise and become urgent.

[5] At the recent annual meeting of the Association of American Colleges, it was voted to "suggest to the American Council of Education either the appointment of a joint commission on academic freedom and academic tenure from its constituent bodies, or the securing of an appointment of such a commission by each of such bodies, with a view of having concerted action and a statement of principles at the earliest possible time."

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The Ethics of Librarianship

A Proposal for a Revised Code

By CHARLES KNOWLES BOLTON

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THE librarian's profession is sometimes thought to be of recent origin whereas it is as old as learning itself. At the dawn of civilization we find the priesthood with temples and tablets; while the keeper of records stood from the first as the organizer and custodian of inscribed knowledge. The annals of Mesopotamia, Egypt, Greece and Rome, of monasteries in the deserts of northern Africa or on the Mount of Sinai, all picture the scribe as the preserver of divinations, prayers, proclamations and epics inscribed on clay, papyrus and parchment. The librarian has ever been a scholar, and usually he has been allied with the ceremonials of religion. Ethics, therefore, have been inherent in his profession even when not expressed in a code. The American colonies and then the states, although absurdly modern as compared with the Old World, have outstripped the continent of Europe in developing tax-supported libraries for the benefit of the rank and file of the people. Organization and ideals of service have gone hand in hand. In September, 1853, a convention of fifty-three delegates from libraries assembled in New York, inspired to confer together by the awakening conscience in England three or four years earlier.

The first conference which led to permanent results was held at Philadelphia in 1876, when the American Library Association was formed, and the *Library Journal* was established as its advocate. This organization was followed by state commissions, and local associations, and of late by societies of librarians allied with special trades and industries. New library periodicals followed, and a keen study of library methods and standards very naturally resulted. We are now at a point where the leaders of library progress who came together at Philadelphia are passing away, leaving the work to younger men and women. They were figures that loom larger as we draw away from their era. Their high ideals for the profession were recorded in addresses and in discussions from time to time during the last fifty years.

Two decades ago the first signs of a code began to win notice. Miss Mary Wright Plummer, a librarian whose character made a lasting impress on the profession, gave an address on the "Pros and Cons of Librarianship" before the Illinois Library Association, April 14, 1903, which was printed in *Public Libraries* for May of the same year. From this address Miss Plummer printed extracts in a leaflet of four pages, entitled "The Fourth Essential." This pioneer effort speaks clearly of a code and therefore seems worthy of record here in full. It is printed from her own revised copy:

> Doctors, lawyers and ministers, college professors, officers of the army and navy, have a certain code which presupposes that they are gentlemen and wish to remain such. A breach of this etiquette strikes at the foundations of their order. Librarians and educators in general have their code still to make. The fact that these codes are for the most part unwritten, makes them no less binding; they are like debts of honor, which, although unre-

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corded, must be paid first of all debts. If we were making a code for librarianship, what would it have to be to help that calling to rank among the professions? Surely the following would be some of its requirements:

We must have dignity, and if we have to advertise, we must be careful how we do it.

We must have humility. All boasting of ourselves or of our work is out of place.

We must realize our individual limitations and be willing to learn before we try to teach.

We must consider our work one of humanity, and must be ready, like doctors, to attend to pressing cases, in season and out of season. Too rigid holding to one's hours savors of the trades-union.

We must have esprit de corps, and librarianship must be, even more than now, a sort of free-masonry.

We must believe in our work, quietly, not ostentatiously.

We must suppress our natural tendencies, where they conflict with the best interests of the profession, and, if necessary, be willing to give up the work for the good of the work.

It comes to my ears that I am said to be too loud, too boisterous, too flippant and familiar to be in charge of a library, or even on its staff. The thing to do is not to get angry, but to keep a sharp lookout that this criticism shall no longer have the least foundation.

I hear that my methods are antiquated, that I prefer ruts and my own comfort to the service of the public. It is plainly my duty not to resent this without self-examination, and if I find it true, either to infuse more energy and self-denial into my character or to yield my place to some one who can fill it worthily.

We should say to ourselves, Am I, personally, a credit to librarianship, and if not, what is wrong with me? Am I helping to make librarianship a profession, or am I hindering?

Within a year or two several other addresses, touching more or less exactly on ethics, appeared. Miss Genevieve M. Walton's paper, inspired perhaps by an earlier effort by Miss Linda M. Duval, was typical of the best of these. In 1908 and 1909 a group of librarians was accustomed to dine at frequent intervals in Boston. From this group a tentative code of library ethics was drawn up by the present writer and after discussion point by point it reached the form in seventeen sections printed in *Public Libraries* under the title, "The Librarian's Canons of Ethics." The same code, after being submitted to discussion for three years, was revised, enlarged and reprinted in 1912 with twenty-five sections. These canons of ethics were in turn discussed by the Council of the American Library Association at Chicago in December, 1913, and 1914. The Council's deliberations, as well as the more recent criticisms and suggestions by more than twenty-five of the leading librarians of the United States, have influenced and molded this code of thirty sections which the author herewith presents. Dr. J. I. Wyer, director of the Albany Library School, a library expert of long and varied experience, has, with the aid of his staff, contributed materially to this thorough revision of the subject. Especial phases the author has discussed with Herbert Putnam, librarian of Congress, and H. H. B. Meyer, Arthur E. Bostwick of St. Louis, Azariah S. Root of Oberlin, Bernard C. Steiner of Baltimore, June R. Donnelly of Boston, Hiller C. Wellman of Springfield, George F. Bowerman of Washington, Josephine A. Rathbone of Brooklyn, Clement W. Andrews of Chicago, Frank K. Walter of Minneapolis, Mrs. Julia G. Babcock of California, Phineas L. Windsor of Urbana and with his own staff.

We assume that these canons of ethics stand in the position of counselor to the younger men and women of the profession, combining worldly wisdom with unworldly ideals. They strive

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to describe the type of librarian whom Sam Walter Foss, poet, librarian, and man of the world, so eloquently showed forth both in his career and in his writings. It was Mr. Foss who said:[1]

The first great cardinal virtues of a librarian should be toleration and enthusiasm. These are qualities that are not easily combined, for a man who is tolerant is usually not enthusiastic, and a man who is enthusiastic is seldom tolerant. A man who combines these two qualities must be lymphatic and nervous at the same time—a kind of hot cake of ice. But we put lemons into lemonade to make it sour and put sugar into the same lemonade to make it sweet. So we put toleration into a librarian to make him judicial, and we put enthusiasm into him to make him human. . . .

If the man is tolerant at the inner core he has the first prime requisite of librarianship. He is ready to stand in his library, as at the threshold of a wayside inn, and welcome all his guests with an equal smile. . . .

Be a public and not a private man. Get out and feel the dynamic thrill that comes from contact with live men. The club, the exchange, the street, the philanthropic and economic organizations that are feeling out for the betterment of mankind are the places where the librarian should be found frequently. He should be the best known man or woman in the city. A dollar bill that never circulates is not worth as much as a copper cent that keeps moving. Nearly every librarian ought to double the circulation of his books and treble the circulation of himself. . . .

He is the custodian of the intellectual treasures of his town; he is the adviser of its scholars, the teacher of its teachers and the keeper of the keys of the vaults of knowledge. The intellectual leadership has passed away, to some extent, from the clergy. The other learned professions—doctors, lawyers and teachers—are so circumscribed by their specialties that they cannot, unless they are very great, become the tolerant and catholic intellectual latitudinarians that we look for in the truly unbiased, educated man. This is the librarian's modern opportunity. Let him be the intellectual file-leader of his community. Let him grow big enough to fill the great place it is his duty to assume.

[1] *Public Libraries*, March, 1909, page 77.

Coming now to the canons, we treat first of the librarian's relation to his trustees. Next in order comes his relation to his staff, and their duty to him. And then follows his relation to other librarians. Beyond this lies the all-important relation of a librarian to the public.

Taking up first the librarian's relation to his trustees, we have:

I. RESPONSIBILITY

In the organization of a library by the trustees, much of their authority is usually delegated to the librarian. He should not chafe if the trustees as a body feel called upon from time to time to exercise the authority vested in them as guardians of the public interest.

In a large library a tactful and efficient librarian will accumulate power by that factor in human nature which delegates responsibility as rapidly as an executive officer proves his fitness to exercise authority. This is a menace to the librarian's character unless he returns again and again to the trustees as the source of his authority. He must show readiness to assume responsibility without becoming a law unto himself.

II. AUTHORITY

Under proper conditions the librarian to whom the entire board delegates authority should be able to exercise more power than any single trustee; and since the policy of looking to the librarian for results requires that a considerable measure of authority be delegated to him, habitual distrust of his judgment or disregard of his recommendations may well lead him to seek opportunity for usefulness elsewhere.

In a small library where the trustees comprise the few men and women of literary influence in the town the

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librarian receives a meagre salary, works for short periods, and is often of necessity a clerk or desk attendant in fact although librarian in name. The delegation of administrative authority to a single trustee is here practical. In the case of a large library this would be destructive of all librarianship. The trustees do a greater service by replacing an incompetent librarian by a new one than by assuming themselves the burden of his work.

III. ALLIANCES

A librarian should not ally himself with one trustee to the exclusion of other members of the board from his confidence.

If a librarian is to confide in one trustee more than in another this should be the chairman of his board or of a committee, a difficult and embarrassing course where the chairman appears to be indifferent and another trustee earnest and peculiarly congenial. But to avoid the pitfall of social, racial or religious cliques he is better off in moderate isolation than as the intimate of a faction. Although the librarian thinks that he knows the type of trustee best suited to the need of his town he is on dangerous ground if he attempts to influence the selection of a trustee.

IV. LOYALTY

When a librarian cannot, in his dealings with the public, be entirely loyal to a policy which is clearly upheld by his trustees, he should indicate to the public, as far as possible, the reasons for this policy without expressing his own opinion; he should also explain his position to the board, and in an extreme case offer to resign.

Stress should be placed on the words *extreme case*, for it is the business of a librarian to get on rather than to get out. Some librarians under impossible conditions believe that an executive should await removal instead of resigning. On the whole a librarian, like a clergyman, serves his profession best when he keeps away from unpleasant publicity. The obvious remedy for this problem is for the trustees to keep their policy broad and free from detail.

V. SINCERITY

To delay bringing a plan before the trustees until it is certain to obtain adequate presentation and a fair hearing may be considered only common wisdom; but to abstain from urging a project until a known opponent happens to be absent is unprofessional as well as insincere.

This is the old question: Does the end (here the public good) justify the means? Adroitness can be cultivated to a point where it impinges upon intrigue and in that form has more than once proved a fatal accomplishment.

VI. REJECTED MEASURES

A wise librarian, when a measure has been deliberately rejected by his trustees, will not bring it forward again until new conditions prevail.

To see a cherished measure fail from indifference on the part of trustees or perhaps through a chance word of ridicule is hard to bear. But time is long and a librarian has need of serenity.

Turning now to the second of our subjects, the librarian's attitude toward those with whom he labors from day to day, we have a relationship which has been broadened and enriched by a more human understanding. This new spirit which moves on the face of the waters is the essence of the age in which we live.

VII. DUTY TO THE STAFF

A librarian is bound, as opportunity offers, to allow an assistant to prove her ability to do work of a higher character than that usually assigned to her, and to advance those that are capable to more responsible positions in his own library or

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elsewhere. He must also spend the money of his institution with due prudence, and get a full return for it in service. Although efficiency of the staff is temporarily reduced by frequent transfer of assistants to new positions or to other libraries, in the end a library whose workers are seen to obtain rapid and solid advancement profits by its reputation in this respect.

It might be said in reply that taxpayers do not conceive of a town library merely as a training school for other municipalities. Nor is the librarian fortunate if, after a term of years, he has lost the brightest of his staff and has retained for a lengthy old age the dull out of all those whom he has trained. Perhaps the only relief is to make the variety of work so attractive and the social opportunities so marked that members of the staff are loath to leave. The librarian should keep his staff familiar with events connected with the library in so far as these contribute to their intelligent interest in its welfare.

VIII. PERMANENCE

Having in mind that not salary but opportunity for service makes librarianship a profession, the worker should not be too eager to move. Permanence makes for dignity and influence in a community. No opportunity to serve the public can honorably be considered merely as a stepping stone or place of passage.

This canon partakes of the nature of sacrifice, but a librarian who is not at heart a missionary has chosen the wrong outlet for his energies. Under ordinary circumstances a year is the least period of service that should satisfy the conscience of an assistant.

It scarcely seems necessary to add that a librarian who has no real thought of resigning employs a doubtful expedient if he tells his trustees that he thinks of moving on unless his salary is increased.

IX. INDIVIDUAL RESPONSIBILITY

Each member of the staff should be regarded by the librarian as an individual, a colleague, capable of performing his particular work, and encouraged to feel his individual responsibility for this work. Where public recognition of work of outstanding merit will advance the interests of an assistant the librarian should be quick to grant it.

The wise librarian will allow to the intelligent assistant latitude in the enforcement of rules, and in their interpretation. The degree of latitude will depend on the rank and character of the assistant.

On the other hand, assistants too often claim advancement for performing the minimum work required. It is safe to say that an assistant who habitually does more than is asked cannot be kept in obscurity.

X. RECOMMENDATIONS

Breaches in morality and honesty are fundamental, and should be mentioned discreetly if a "recommendation" is given. Peculiarities in personality may be handicaps in one library but assets in a library of a different type. A wise librarian may mention but should not stress these, and the librarian to whom recommendations are sent will weigh so-called "defects" in the light of his own conditions and environment.

To recommend an unsatisfactory assistant, merely to get rid of that assistant, is unworthy of any administrator.

Recommendations are an important function of a librarian's routine, and upon them careers depend for success or failure. Charity and conscience must between them determine the degree of fidelity which the portrait is to assume.

XI. THE STAFF'S DUTY TO THE LIBRARIAN

A librarian has a right to entire loyalty from his staff, although he may be called upon at times to face frank comment from them. Such criticism should never go beyond the library doors, nor should the staff carry complaints over the librarian's

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head to the trustees, except in extreme cases.

Conversely, the librarian's criticism of a member of the staff should be as private as the welfare of the library will permit. For just treatment the staff look to the librarian, and the trustee who comes between the librarian and a member of his staff lessens executive authority and in the end breaks up the morale of the entire staff.

XII. THE STAFF'S DUTY TO THE LIBRARY

An assistant should not allow personal antagonisms within the library to injure efficiency, nor should the staff tolerate a cabal of congenial spirits that tends to break up the membership into groups ready at hand for rivalries and jealousies.

Long periods of idleness in the case of an assistant should be called to the attention of the superior officer. Leisure has its dangers, and should be used for self-improvement as the best return for compensation received.

XIII. THE WORK AND THE WORKER

The assistant should realize that the work is more important than the worker; that the assignment of an uncongenial task is not due to a personal grudge nor a slight to the assistant, but a necessity enforced by the work that must be done by someone.

In the assignment of work and arrangement of schedule of hours, marked leniency toward members of long service, thereby shifting burdens to younger assistants, creates an unsatisfactory atmosphere. Long service should rarely be urged as a reason for favored treatment, nor should a low salary be advanced as an excuse for poor work.

XIV. PERSONAL OBLIGATION

Each assistant should realize his own personal obligation as a public servant to each library patron. He should strive always to be courteous and pleasant, remembering that the staff stands as the interpreter of the library to the public and that it may be materially helped or harmed by his individual conduct.

An assistant sometimes fails to realize that some of the more desirable constituents who use the library are shy. To the mind of such a user of books the friendly assistant personifies the library. Habitual ridicule in private of mistakes or ignorance on the part of the public will affect, eventually, the conduct of the assistant.

XV. HEALTH

Health is an assumed qualification in a librarian's equipment, and continued ill health does not ordinarily entitle an employe to favored treatment by a public institution.

Conversely, the library should conserve the health of the staff by furnishing the best possible equipment as regards light, air, sanitation, and rest.

Unfortunately the ill health of one assistant throws routine burdens on other members of the staff. It is a duty therefore to keep fit out of consideration for others. Miss Rathbone says: "Far more than ever before do men today realize that health is a matter of individual achievement, the result of intelligent effort." In large libraries a medical adviser is connected with the staff and obviously has a quasi-jurisdiction over their habits of life outside of library hours. Illness in the family is not a valid claim for absence with pay. Each case must be met on its merits.

XVI. NOTICE OF RESIGNATION

Ethically considered, the assistant should, when seeking a change of position or when considering a definite offer from another library, consult the superior officer; but the personality of a superior officer will inevitably influence an assistant's course of action. Having accepted a position, the assistant should give adequate notice before leaving.

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This subject is perhaps the most controversial of all those which are treated in these canons of ethics. It has been suggested that one's dissatisfaction should be brought to the attention of the librarian, in order that conditions may be remedied. But a mere notice that an assistant is "looking about" may result in uncomfortable personal relations lasting for several months or even years. The librarian should be careful not to prejudice himself against an assistant who desires advancement in another field of service when the right opportunity offers.

A librarian owes much to other librarians and to the professional associations, which are created for mutual benefit. We are not free lances engaged in warfare with our fellow-workers. In these relations we have:

XVII. EXPERT ADVICE

A librarian may not accept an appointment to act as an expert adviser to the trustees of another library, even when solicited, without the request, or at least without the full knowledge, of the librarian concerned.

The analogy is to be found in the physician, who may not advise a patient unless the attending physician requests it, or until the attending physician has been dismissed. At the same time there are the "survey" and the "efficiency test" that are becoming popular means of improving conditions. The expert librarian will in time take his place with the "consulting expert." It is a natural function of the leader in his profession. Nevertheless there must be reasonable consideration for the humbler brother of the same profession.

XVIII. PRIVATE ADVICE

A librarian should feel free to claim counsel from others in the same calling, and should be willing to give such counsel when requested, without publicity or expense.

One of the outstanding merits of a certain librarian who was still "in harness" at the age of ninety-two was his willingness to consult men young enough to be his grandsons. Questionnaires, however, too often go beyond bounds in their call upon the librarian's time.

XIX. RIVALRY

Librarians should be slow to publish statistics in order to show superiority of a library over neighboring libraries, such statistics often requiring qualification or explanation. A similar comparison in words is of questionable taste, and any printed criticism should always bear clearly the librarian's name.

One can turn to annual reports of librarians which give comparative statistics with the undoubted desire to enlighten taxpayers. At the same time in so doing the librarian may embarrass other librarians who happen to be placed in a less favorable position.

XX. ENGAGING AN ASSISTANT

A librarian may not take the initiative in negotiation for the services of an assistant in another library until he has made his intention known to the assistant's superior officer; or he may make his intention known to both assistant and official superior simultaneously.

Objection has been raised to consultation with a librarian over his minor assistant, but most librarians agree that before negotiations begin with an important member of another staff courtesy at least calls for a personal letter to his or her chief.

XXI. PREDECESSORS

A librarian who makes a habit of commenting unfavorably on the work of his predecessors in office invites criticism of his good taste.

The coming of a new librarian is a strain upon the staff, and if the mem-

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bers are to give him their loyalty he should not speak slightingly of one to whom they have given their loyalty in the past.

A librarian's obligation to the public exists in many forms. He needs to keep constantly before his mind that it is the *use* of knowledge rather than the storage and classification of knowledge that is the vital factor in his work.

XXII. A LIBRARIAN'S PROVINCE

It is the librarian's duty to be a force in the community, and contact with people even more than with books engenders force. We must not confuse the duties of librarian and assistant; the one is always associated with *people*, although in a small library he (or she) may do all the work; the assistant may or may not be called upon to meet the public, but generally has specific duties to which specific hours must be given.

The great Panizzi of the British Museum so far failed to heed the principle involved in this canon that he came very near to losing his position. He wished to do the work of a bibliographer, delegating his powers to a subordinate while he retained the honors of a head librarian. The subordinate by contact with people soon became his master.

Censorship of reading is a perilous No Man's Land on the boundary of a librarian's province. How far an executive should go in exposing for use books which are in his opinion destructive of morals and society, and those issued frankly as propaganda, is a serious question. The annunciation of a policy lies with a board of trustees, rather than with the librarian. Mr. H. C. Wellman in an address entitled "An Article of Faith" discusses very clearly the librarian's responsibility in the field of censorship.

XXIII. REPUTATION

A reputation acquired by work for the public in the profession or in kindred paths of service adds to the dignity and power of the librarian. But the value of the work must advertise the worker, and self-advertising is outside the pale.

A profession is like a sonnet. It confines the effort to a prescribed channel, but stimulates a higher standard of excellence within the self imposed bounds.

XXIV. BEARING IN PUBLIC

A librarian as a person of influence, and seeking the respect of all his fellow-citizens, cannot carelessly choose his company, nor indulge in habits and tastes that offend the social or moral sense. These self-limitations are in the nature of hostages which he gives for the general good. He must not limit his advisers to one circle, for he needs a wide horizon, ready sympathies, and the good will of all classes.

One may have heard a librarian say: "It is nobody's business what I do outside the library." That type of library worker has merely mistaken his calling and should change his vocation.

XXV. USE OF HIS NAME

A librarian should stand on neutral ground and should be chary of lending his name to a public controversy to add weight to the contention of a local faction, or to commercial enterprises, even those that have an educational or philanthropic motive. Having a financial interest in any material device, invention, or book proposed for purchase in his library, the librarian should inform his trustees of this interest. It would be better not to have a financial interest in companies whose business is largely with libraries.

His advice will very naturally be sought by his constituents increasingly as his influence grows, but giving for publication a testimonial to a book is likely to lead to serious abuses. Standing on neutral ground, he should be all things to all men. "He loves all ideas—even when he despises them and disbelieves in them—for he knows

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that the ferments and chemic reactions of ideas keep the old world from growing mouldy and mildewed and effete."[2]

XXVI. HONORARIUM

An honorarium for work done in library hours should not be accepted, and a librarian should be slow to undertake commissions for work outside library hours which might easily be executed in library hours without expense to the citizen.

If a librarian feels impelled to add to his income by outside work it is wiser to earn by an avocation than by his vocation. Work which claims much of the librarian's strength and does not add directly or indirectly to his reputation or to that of the institution should be made known to the trustees.

Beyond this there is a limitless field for our canons of ethics to cover. We cannot hope to mention all the ways in which a librarian may be stimulated to high ideals. In his personal relation to books we may say:

XXVII. BOOK SELECTION

Purchases of books should reflect the needs of the community rather than the personal taste or interest of the librarian. His selection of books should be catholic, and his power to guide be exercised with discretion.

A library is not a collection of books made after a fixed pattern. Each community has its bookish needs unlike those of any other community under the sun. It is this infinite variety that gives the profession which collects and makes books useful its attraction.

[2] Sam Walter Foss.

XXVIII. SPECIALIZING

The librarian should not permit specialized book collecting or book reading to narrow his field of interest, nor to bias his judgment, nor to make him a rival collector to his library. The number of points of contact with knowledge and with his public determines to some extent the librarian's usefulness.

The fringes of all knowledge bound the administrator's province, but he, like his assistant, may by mastery of a single subject increase the renown and the usefulness of his library.

XXIX. RELATION TO AGENTS

A librarian is bound to expend the funds intrusted to him with the best interest of the library in view. But he should remember that in employing an expert, ability and efficient service are worthy of proper compensation, and to sacrifice them for slightly better terms or to make frequent changes may not result to the library's permanent advantage.

He should not jeopardize his independence by accepting special favors from business firms.

If a librarian is in doubt about the propriety of accepting a gift he should at least insist that the gift be public knowledge. Favors often come disguised in a form to flatter the unsuspecting librarian.

And in conclusion:

XXX. PROFESSIONAL SPIRIT

The literature and the organizations of the profession claim consideration from the earnest and progressive librarian.

A high professional spirit calls for sound training, clear ethical standards, and sustained enthusiasm for the fellowship of librarians. *Non ministrari sed ministrare.*

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The Ethics of the Ministry

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IT might be possible to make a brief article on this subject by saying that the ministry as a body has no code of professional ethics. This statement would be true enough if by a professional code we mean one that is formally accepted by all who are called ministers. There is for the ministry no formulated code defining conditions of membership and giving formal standards concerning professional conduct. Yet this statement, while true in form, would be far from the truth and would convey a wholly wrong impression. For the ministry as a body of men dedicated to a certain life and service, has very rigid standards by which men are pledged and their conduct is tested.

The various professions have their codes and standards. Why is it that the ministry, which is supposed to represent the highest ideals, has no such formulated and recognized code? The answer to this question will carry us a part of the way toward the answer to our larger question.

The ministry is regarded as a calling rather than a profession. Whatever may be the motives which induce men to enter the various other professions, such as medicine, law, teaching, engineering, or the various vocations, as business, banking, manufacturing or trade, there is but one motive that is supposed to be dominant in the ministry. Men in the ministry are expected to know the will of God, to interpret His truth to men, to be spokesmen for God and His cause in the world. "No man taketh this office on himself, but he that is called of God." Practically all religious bodies hold this conception; they therefore expect all who would enter the ministry to have a valid call from God; they believe that this call is higher than any considerations of personal profit or pleasure. In these times at least, in practically every communion, a man who admitted or gave men reason to believe that he was actuated by selfish motives, would be sadly discredited. Theoretically, at least, he is a man set apart by a special call for a special work. We need not discuss the question how far the ministry as a body is true to this conception; nor need we here inquire how far the conduct of ministers in general justifies their high office. We are accounting for the fact that there is no formulated code of ethics for the ministry.

REASONS FOR LACK OF FORMAL CODE

It is felt that such a professional code of ethics would cast discredit upon the very idea of the ministry. It is expected also, by the very nature of their calling, that its practitioners will be men preëminent in all the virtues that are esteemed among men.

Then, as every one knows, the religious bodies are divided into many and divers denominations. Religious convictions or opinions, whichever word may be accepted, are probably the strongest in human nature and take precedence of all others. It follows, then, that religious divisions and differences are very strong and keep the churches apart. In some cases a religious body regards itself as the only true church, and hence regards all other bodies simply as sectarians, if not heretics. It is therefore impossible to bring together representatives of the stronger religious bodies for the full

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and free discussion of any questions either of faith, polity or conduct. So in the medical profession there are several schools of medicine and, as every one knows, there is much criticism and rivalry. But all schools recognize certain obligations toward patients and certain methods of procedure. Thus while each religious body has, nevertheless, its own standards and codes, all of these are high and right.

In every body with any such thing as a recognized ministry, there is some ordination service. At this time there is careful scrutiny of the candidate's life, his call to the ministry, his fitness for the work, his ability to adorn the calling to which he is set apart. In all of these bodies there is some supervisory official, Bishop, Presbytery or Council, that may be asked to pass upon the man's life or conduct when in the ministry. When any charges are circulated against him he may be investigated and called to account, and, if found guilty of conduct unbecoming a gentleman and a clergyman, he may be warned, deposed and unfrocked. An unworthy or immoral man may continue for a time; but every one familiar with the inside history of churches knows that in practically every case such conduct brings the revocation of his ordination and his expulsion from the ministry.

As every one knows, and as must be admitted with regret, some ministers do wrong and a few are convicted as criminals. But all this is also testimony to the high standards of the ministry. Perhaps, in proportion to numbers, more ministers are unfrocked than there are lawyers disbarred. But, be it understood, ministers are unfrocked for private conduct, which does not enter into account against an attorney. No man can long continue in the ministry of any religious body who is known to be immoral in sex matters. The standards of the ministry include the personal and private life; whereas, professional codes deal primarily with professional conduct. The professions expel a member whose professional conduct brings reproach upon the professions. The churches discipline men whose private lives are known to be immoral or unworthy.

One other reason may be mentioned why the ministry has not formulated a code of professional ethics. The churches that bear the Christian name have been given some definite principles which cover practically all of the points of a code; and these principles are accepted as authoritative and final. In the New Testament, and especially in the letters of the Apostle Paul to Timothy and to Titus, we have some very definite instructions concerning the ministry. These charges deal with the minister's life and conduct as a man, a husband and father. They define his qualifications in personal character, in aptness to teach, in general deportment. They deal explicitly with his studies, his work as preacher and pastor; they indicate also the motives that are to determine his life and service. These writings, it may be said, are accepted as authoritative by churches and pastors. In view of this, it seems almost needless to attempt any formal and elaborate statement of professional ethics.

In the theological seminaries students for the ministry receive very careful instruction in ministerial ethics. Unfortunately in some bodies a considerable proportion of ministers do not receive any adequate theological and collegiate training. Yet, as I have stated, all churches and ministers accept the writings of the apostles as authoritative. And so it is that all ministers have definite instructions, regarded as inspired, which contain all of the essentials of a professional code.

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Thus far we have considered the reasons why the ministry has no professional code of ethics. In so doing we have noted, also, that all religious bodies are exacting in their demands so far as the personal lives of ministers are concerned. There are, however, other facts that must be taken into account in dealing with the ministry as a profession.

Professional codes are designed by the members of the profession themselves and have several definite objects. These objects, as I understand, are intended to maintain the standing and dignity of the profession, to prevent the entrance of the unfit and ill qualified, to provide for the expulsion of any whose conduct brings the profession into reproach and to regulate the conduct of its members in their relations to their patrons and toward the public. So far as the ministry is concerned, it has no formal code covering these points. Yet it has an unwritten code covering these and other points; and some aspects of this may be noted.

SAFEGUARDING THE ENTRANCE

By the nature of the case, such professions as law, medicine, teaching and engineering, demand some specialized training. We grant that the ministry by its very nature, as the interpreter of an authoritative Book and the instructor of the people, requires a large amount of special training. Yet there are many types of service in the ministry, and while adequate collegiate training may be essential for some men, it is not so essential for others. The church must keep a door open for men who have a special call or exceptional ability. In some bodies the educational standards are high and exacting. In other bodies some of the most successful and honored men have had little if any collegiate training.

MAINTAINING THE STANDING AND DIGNITY OF THE PROFESSION. NOBLESSE OBLIGE

There are certain obligations implied in rank, and these are among the finer things of life. Men who have any conception of the meaning of the ministry are quite likely to conduct themselves with decorum and dignity. The ministry by the nature of the case represents the highest ethical and social ideals. This is especially the case with reference to children and the weak, and, even more markedly, in its attitude toward women. Few men are subject to as many special and subtle temptations as ministers. Occasionally one fails and falls. And yet ministers as a body are most careful here to avoid every appearance of evil and to maintain the same attitude toward all.

THE SERVICE MOTIVE

In many, if not all of the professional codes, the idea of service is placed in the very forefront. Members are taught to think of themselves as public servants; and the motive of mere profit or advantage is discouraged. The medical and teaching professions have high standards here. Any discovery that one makes must not be capitalized for one's own profit but must be given to the public. The teacher or physician who patents some discovery or invention is guilty of unprofessional conduct and is usually treated either as a quack or a mere patent medicine vender.

No class of men do as much unpaid service as ministers. Day and night they are ready to respond to the call of sorrow or need. The minister who is suspected of looking after his own financial advantage and forgetting to serve the people, soon is found out and is fatally discredited. Any person of large experience can point to at least one minister who because of his selfish

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or non-serving spirit has been discredited and has dropped out of the ministry. Judged by the achievements of business men, physicians and lawyers, there are no large financial successes in the ministry. In one of the larger religious bodies with some eleven thousand ministers, there are not five ministers who receive salaries of ten thousand dollars a year. The minister has forever surrendered the hope of being rich. Of course, like every man, he wants an adequate support for his family and some of the comforts of life. But the hope of money reward does not determine his calling, his acceptance of a field, the conduct of his work. More than that, it is expected that he will give his undivided attention to his life's calling. The minister who is carrying side lines for profit and seeking to get rich, is immediately and fatally discredited.

PROTECTING THE PROFESSION

The old principle, long ago enunciated by the Apostle Paul, has a wide application. If one member suffer, all the other members suffer with him; and if one member is honored, all the members rejoice with him. It is right and proper that in every profession men should regard the "honor of the profession," should protect one another and defend any who are unjustly attacked. Every profession must be judged by its usual practices and its better members. No profession should be condemned for the exceptional conduct of the least representative members. Yet every one has known instances where "professional ethics has shielded the unethical conduct of men." Professional ethics has kept the lips of physicians closed when they should have warned the ignorant. Ministers, like all other self-respecting men, hold sacred, confidential information and personal confessions. Very seldom indeed does one prove faithless here. Yet ministers who are fully faithful find that ethical standards require them very often to counsel people and sometimes warn the innocent. They would consider it unethical to be silent while great wrong was being done.

PROFESSIONAL HONESTY

In all of the professions men are expected to deal frankly and honestly with clients. The high-minded business man will correctly label his goods and will not sell for good wool, material that he knows is poor shoddy. He will not take advantage of his customers to overcharge for any article. The physician is expected to deal fairly with his patient. He will not convey a false impression nor will he keep a man sick to increase his bill. The conscientious attorney will not attempt to deceive the court or the jury. Of course every man is presumed to be innocent till he is proved guilty; and every man is entitled to a fair trial. But professional ethics forbids pettifogging and deception.

Here we touch a tender nerve in the minister's life. The modern minister, some one has said, is like a man walking among eggs. He has to do with all kinds of people, bad, weak, good, better, best. He is the interpreter of truths which sweep the range of life and make the highest demands of men. He is expected to show men their sins and failings, to warn the unruly, to charge men who are going wrong to repent and change their ways. His very calling requires him to make men know the whole will of God and to guide men's feet into the paths of justice and truth.

There is a subtle temptation here which few appreciate. It is easy for the minister to "accept a situation" and be silent lest he stir up trouble. It is easy for him to prophesy "smooth

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things" in order to keep everybody pleased. It is easy for him to denounce unpopular sins, as wife beating, and to pass over the popular sins of people. It is easy to thunder on the minor sins and get a reputation for brave outspokenness, and to soft pedal on the major sins, such as economic oppression and commercial injustice.

Ministers are men and are subject to the limitations of men. Few are men of great ability; fewer still are men of keen insight. But most are men of sincerity and honestly endeavor to deal fairly with the truth. Now and then we find a minister who sells the truth to serve the hour. But I have known thousands of ministers, many of them fully and intimately, and it is my conviction that there is very little paltering with the truth, very little cowardice, still less, "huckstering the Gospel" to serve one's gain. If a man is unknown and unpopular there may be a temptation to win people's favor. If he has become popular with a large following, there is a temptation upon him to flatter the crowd. But in the main standards are high and ministers speak the truth as they see it, come what will.

There is probably no place where sincerity and inner probity are so much needed. Jesus might have made a bargain with the devil, and not a man in His day would ever have known it. The minister today might dim the inner light and serve his own interests without any one's suspecting it. Under these circumstances a formal code of professional ethics would have little meaning or value. The true minister's loyalty must be to an inner standard, to an unseen master, to the applause of his own conscience.

PROFESSIONAL COURTESY

"Every calling, trade or profession has, of course, a strong tendency toward a professional or class consciousness. It naturally secretes and crystallizes a professional or commercial code of ethics, a system of taboo and etiquette, which is likely to become a substitute for the fundamental and vital principles of morality and righteousness." These words of Bishop Williams point out a danger which besets all men and especially the minister. In every calling, trade or profession there is a tendency for men of each school, business, or group, to flock together and view every question from the point of view of their particular class. Ministers are probably as free from blame here as any class of men; yet not all are above reproach.

In our modern world we have many religious bodies all competing together for the allegiance of the people. Naturally enough men of each communion believe that they have the essential truth of the Gospel; they may not believe that others are all wrong, but they do believe that "we" are most nearly right. Competition in church matters is keen; the church that would prosper must "be up and doing."

The time was when church competition was more intense and less kindly. The time was when ministers of one body had little in common with those of other bodies. But a remarkable change has come in this respect. In practically every city there is a Union Ministers' Conference, where ministers meet to express their brotherly spirit and to consider their common work. The time has gone by when men of one communion disfellowship and denounce those of other communions.

In the trades and professions there are professional codes regulating the conduct of men. It is unprofessional in a physician to advertise his cures or to claim to be a cure-all. It is unprofessional in a merchant to misbrand his goods or to discredit others in the same line of trade. In the same way it is

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unprofessional in the minister to resort to sensational and unfair methods in advertising his preaching or his church. In nearly every city there is some one minister who has a large congregation and a popular hearing. So long as he is fair and brotherly all others rejoice in his popularity and prosperity. There is far less professional jealousy than one might suppose.

In practically all of the Protestant bodies, church life and government is becoming ever more democratic. Each congregation as a rule expresses its own preference and calls its own minister. This gives opportunity for intrigue, for clerical narrowness, for professional jealousy to assert themselves. To illustrate: A church is about to call a minister and has some names before it. As a rule the various aspirants for the place are perfectly fair; no one seeks to discredit others in order to enchance his own chances. It sometimes happens, however, that people of one school of doctrine raise questions and spread reports concerning the candidate's soundness in the faith. I have known a number of excellent men who have been undermined in this way. But it is only narrow bigots who resort to such practices; no reputable minister would countenance them.

One other thing: When a minister is changing pastorates there are certain ethical standards to be observed. Ministers are very restless and many are looking around for a "better" or a "larger" field. It is not regarded as ethical for a minister to coquet with some other call or to seek a call to some other church in order that he may be asked to remain in his present field at a larger salary. It is hardly ethical for a clergyman to accept a call to some other field till he has first conferred with officers of his present church. Of course every real man wants to do the largest work possible; and every minister desires an adequate income for his family. But the question of salary is seldom the first consideration. It is unethical to be looking out primarily for a larger salary. The minister who is believed to be doing this is soon discounted by his fellow ministers and is fatally discredited among the churches.

Jesus of Nazareth, it has been finely said, was the world's perfect gentleman. They who are called to be His followers and ministers of His grace, are expected to be like their Master. Many fail; humility compels us all to confess that we fall below our ideal. But my experience and observation teach me that ministers as a class maintain high ideals and live up to a fine code of professional ethics.

Ethics in the Public Service

Proposals for a Public Service Code

By WILLIAM C. BEYER
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AS our already extensive public service continues to grow and to absorb a larger and larger proportion of the workers of the country, we shall become increasingly concerned, not only with the conditions under which public servants are employed, but also with the ethics and ideals that govern their conduct. A public service, the members of which are not guided by

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considerations of public welfare, is bound to fall short of fulfilling its mission as an instrument of social usefulness.

In many professional groups it has long been the practice to formulate in a code the rules of conduct that individual members are expected to observe in their relations with each other, with their clients, and with the public. These rules do not always have the formal sanction of the group, but may simply be understood and accepted as a matter of professional custom. The clergy, for example, have certain unwritten rules that every clergyman is expected to obey. A number of professional groups, however, notably the physicians, the lawyers, the architects and the engineers, have reduced these rules to formal codes.

So far as the writer is informed, public servants, as such, have never developed a written code of ethics. There are in the public service representatives from all the professions having codes of this character, and these workers are quite as much subject to their canons of professional ethics while in government employ as they would be in private life; but there is no written code applying generally to all public servants.

Most persons would probably agree at once that a code of ethics for our public service would be highly desirable. It is pertinent therefore to consider briefly the conditions essential to the development of such a code, its possible general character and content, and a few specific canons that might be included in the code.

CONDITIONS ESSENTIAL TO DEVELOPMENT OF CODE

In considering the conditions essential to the development of a code of ethics for public servants, one is struck immediately with the way in which the public service differs fundamentally in make-up from those groups of workers that already have formal rules of conduct. It is not composed as are the latter of persons belonging to a single vocation, but comprises within itself practically all vocations. Its members are not versed in a common technique as are those of the professional organizations to which codes of ethics are still largely confined. No common educational background is required for the public service as it is for the practice of law or medicine, or for engaging in architectural or engineering work. Public servants do not even have the common tie of being all hand workers or all brain workers. They are, in short, a heterogeneous aggregation, whereas those groups that have ethical codes are homogeneous in character.

This fundamental difference is pointed out, not because it is believed to interpose an insuperable barrier to the development of a code of ethics for the public service, but because it doubtless will make the development of such a code more difficult than would be the case if the public service were more like professional organizations.

There are, however, certain prerequisites to the development of a public service code of ethics. In the first place, entrance to, and promotion in, the service must be based upon definite qualifications for the work to be performed. So long as partisan or other irrelevant considerations continue to be important factors in determining the personnel of the public service, it is hardly conceivable that a code of ethics will be brought into being. This does not mean that all progress toward the desired goal must wait until the merit system has been established in every nook and corner of governmental jurisdiction, but it does mean that no branch of the public service in which the merit system has not become firmly

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rooted is likely to make any contribution to the cause of higher standards of conduct. It is perfectly possible that in our federal civil service and in the civil service of some of our larger cities where the spoils system has been most successfully curbed, we shall see attempts at formulating codes of ethics long before other branches of the public service have even been brought under legal civil service provisions. In every movement we have had our pioneers, and so we probably shall have in this.

In the second place, the workers must be organized. A loose aggregation of individuals without any machinery for group action is in no position to give formal expression to its common sentiments and ideals. All of the vocational groups that have reached the code-framing stage, or have formally adopted codes of ethics, have done so only after they had become organized in local and in larger units. To this process of evolution the public service can be no exception. Here again, however, it is not necessary to assume that the second stage of development will not begin until the first has been carried to completion. Even though our public service is as yet far from being fully organized and may never reach the one hundred per cent goal, still a code of ethics for public servants may not be altogether a remote possibility. An organization such as the National Federation of Federal Employes may well take the lead in proposing standards of conduct that ultimately will come to be accepted by government workers throughout the country.

In addition to these two prerequisites, there are several conditions that are important, though not indispensable, to the development of a code of ethics for public servants. One of these is a reasonable degree of freedom from economic want. So long as public servants are grossly underpaid, they are likely to bend most of their organized efforts toward improving their standards of compensation and to give relatively little thought to their moral obligations to the community. In the past, our civil service unions have devoted themselves largely to the promotion of legislation designed to better their working conditions and to increase their inadequate pay. They have, it is true, always stood staunchly by the merit system. But with the exception of their occasional consideration of the question as to whether government employes should avail themselves of the strike as a weapon in enforcing their demands, these organizations appear to have concerned themselves but little with matters of public service ethics. The reason for this doubtless lies in the greater urgency of the bread and butter problem.

Another condition of considerable importance is the coöperation of our educational institutions in raising standards of performance and conduct in the public service. Our high schools and our colleges and universities are the great "ideal factories" of the country and have done much to elevate the moral tone of the business and professional world. This has been accomplished largely by means of special courses of training for the more important vocations. It is true that the public service is not a distinctive vocation such as law, medicine, engineering and agriculture; but is rather a field of employment, analogous to that of business and industry, in which all the vocations are represented. Nevertheless, the tasks and the viewpoint required in the public service are sufficiently different from those of private industry to warrant our institutions of learning in giving greater prominence than they now do to the peculiar needs in the former field. What is necessary is not

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so much the addition of new departments of instruction, as the introduction of new courses of study emphasizing those features which are of especial importance to workers in government employ. These courses could be utilized, not only in preparing young men and women more specifically for the tasks of the public service, but also for inculcating in them those standards and ideals of conduct by which all public servants should be guided.

It is probably fair to say that all the foregoing conditions essential to or helpful in developing a code of ethics for the public service, are within the realm of possibility. The merit system is slowly but surely establishing appropriate standards of qualifications for entering the service and securing promotion in it. The process of organization, too, is well under way, especially among the employes of the federal government and of our larger cities. No doubt the pressure of economic want will be gradually alleviated, largely through the efforts of the organized civil servants themselves in directing public attention to their present inadequate compensation. With the growing importance of government activity in the life of the nation, it is to be expected also that our educational institutions will coöperate to an increasing extent in improving the equipment and in stimulating the moral sense of the men and women in government employ.

GENERAL CHARACTER AND CONTENTS

We may now make a few brief observations with regard to the general character and contents of a public service code. It is in order to preface these observations by raising the question as to whether the ethical standards of public servants will ever be expressed in a single formal document, or whether the various groups of government employes are not more apt to adopt separate codes of their own. Probably the latter is more likely to be the case than the former. That there would be any appreciable difference in the practical result is not at all certain. Our present concern, however, is not so much to anticipate the actual trend of evolution as it is to clarify our thinking with regard to the standards of conduct that should be observed in common by all members of the public service. For this task it is a convenience to proceed on the basis of a single code for all, even though events may follow a different line of development.

Let us assume, then, a single code. In the first place, such a code would supplement, but would not include, those canons of ethics which are already in the codes of the various professional organizations represented in the public service and which relate to matters peculiar to those professions. It could not attempt to embody all the rules which may be found necessary or desirable in each and every one of the numerous vocational groups that make up the public service. The public service code would have to confine itself to those more general canons of ethics that apply equally to all the groups. By so doing it might appropriate a considerable number of rules that are in existing professional codes, but to this there could be no objection so long as those rules were of general applicability.

In the second place, a public service code would probably follow the example of other similar codes in laying down rules to govern the relationships between fellow workers. This seems both desirable and important. In professional organizations, canons of this character have been adopted, in part at least, to protect individual members from unfair competition. Perhaps there is less need in the public service

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for this type of protection, but there is great need for harmony and coöperation. Friction and lack of teamwork among government workers not only make for unpleasant conditions within the service but also lower the efficiency and tend to defeat the purposes of government. It is therefore quite as essential to have definite standards of conduct to govern the relationships between fellow workers in the public service as it is in professional organizations, though for somewhat different reasons.

Finally, such a code ought to state clearly the obligations that every government worker owes to the public. It is the great distinction of all governmental activity as contrasted with private industry that the motive in the former is service to the community, whereas the motive in the latter usually is profit to the individual owners. Public servants, therefore, have the high privilege of contributing directly to the welfare of their fellow men instead of merely as an incident to making profits for the private owners of industry. With this privilege goes also a greater responsibility than rests upon less favored workers, to place the interests of the community above all other interests. In order that public servants may be constantly reminded of this fact and may govern their conduct accordingly, it is important that their obligations to the public be set forth in their code of ethics.

A Few Proposed Canons for a Public Service Code

This brings us to the consideration of specific canons for a public service code. It would be as futile as it would be presumptuous to undertake a complete enumeration of the many items that such a code ought to contain, and it is not our purpose to do so. At most, we shall endeavor to set down a few of the more obvious essentials of the ethics of public service, in the hope that they may afford a starting point for a more comprehensive effort. With this thought in mind, the following canons are suggested for the guidance of the public servant:

1. He should at all times be courteous, especially in his dealings with citizens who come to him with complaints or for information, assistance or advice.

At first thought this suggested canon may seem superfluous, for it would appear that courtesy might be taken for granted. Unfortunately, however, it is not always present in public offices.

2. He should give the best that is in him to the work he is called upon to perform.

In reference to this canon, the writer wishes to disclaim any share in the popular view, still too largely held, that all public employes are loafers. Some of the most conscientious workers that may be found anywhere are in governmental services, and the average civil servant is probably no less industrious than the average employe of any of our large private corporations. Nevertheless, there are some public place holders, especially in branches of the service not yet touched by the merit system, who are greatly in need of the admonition given above.

3. He should deal fairly with all citizens, and should not accord to some more favorable treatment than to others.

A public servant should never forget that he is the servant of *all* of the public, not of any fractional part of it. He should therefore treat all citizens alike, regardless of their political affiliation, religious faith, racial extraction, or material wealth.

4. He should not limit his independence of action by accepting gratuities or favors from private citizens who have business dealings with the government.

Comment on this is hardly necessary. There are, unfortunately, many indi-

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viduals who have no scruples about the methods they employ in winning concessions from governmental agencies, and all too often, through the frailties of human nature, public servants fall victims to the subtle snares of these self-seeking members of the community.

5. He should never be a party to any transaction which would require him, as a representative of a department of government, to pass upon the quality or price of goods or services which he, in some other capacity, is offering for sale to that department.

The impropriety of acting as buyer and vendor in the same transaction is obvious.

6. If a public servant is asked by his superior to do something which would jeopardize the vital interests of the public, he should first endeavor to dissuade his superior from pressing the request, and if this method proves unsuccessful he should tender his resignation, stating publicly his reason for doing so.

Many a public servant has had this problem to face. The solution suggested above is drastic, but there appears to be no other proper way out. To make the problem even more difficult, it usually happens that the issue is beclouded by other considerations also affecting the public welfare. For example, a faithful public servant may have continuous pressure brought to bear upon him to relax somewhat the enforcement of a law which interferes with the interests of the political faction with which his superior is affiliated. If this public servant resigns, he may simply clear the way for the appointment of another person who would make no effort at all to enforce the law in question and thus leave the public welfare less protected than ever. Might it not be better, in a case of this kind, to make some concessions to the wishes of the superior and to stay by the ship lest even greater injury be done? At times, yes; at other times, no. Each case must be decided on its own merits. However, unless the issue *is* beclouded in the manner just indicated, no public servant ought to shrink from the drastic course proposed in the foregoing canon.

7. A public servant who is charged with the enforcement of a law with which he is not in sympathy should either subordinate his personal views or resign from the service.

That a law may be poorly adapted to the needs of the community, or may even be positively injurious to society, is quite conceivable. A public servant, however, ought not to make himself the judge of its efficacy.

8. He should work in full coöperation with other public servants in furthering the ends of government and in promoting public welfare.

A public servant cannot be a law unto himself in the manner in which he does his work. If he is not animated with the spirit of coöperation he will frequently retard rather than advance the cause of social welfare.

9. He should be true to his obligations as a custodian of public property and regard its misuse or waste as as serious an offense as the direct misuse or waste of money from the public treasury.

Public servants should be just as conscientious in the use and care of the property belonging to the people as they would be were this property their own. They should bear in mind, moreover, that the waste of public resources results in a weakening of the services that governments are established to render to the men, women and children of the community.

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The Professional Organization of Social Work

By MARY VAN KLEECK
Director of Industrial Studies of the Russell Sage Foundation
AND
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Executive Secretary, American Association of Social Workers

OF all the professions social work is the only one in which in its early beginnings the practitioner has been commissioned by one group to perform services for another group. Social service, in its earlier forms of charity, starts with the impulse to serve, which is a common possession. Gradually out of service to the individual emerges service to the community with the necessity not only for one group to serve another but for all to unite in promoting the common weal.

Thus, paradoxically, the effectiveness of social work as a profession in the public interest, depends upon making its motives, its aims, its knowledge and even its "technique," a common possession, seemingly abandoning the usually accepted basis of a profession as the organization of a group set apart through exclusive ability to perform certain tasks. In contrast with this exclusive status the invasion of all professions by the modern social ideal tends to the same effort to share knowledge with the community. The relation of the medical profession to public health education is an illustration. A profession, on the ethical plane, tends to become the use of knowledge and skill for the common good, and since service in the common good is not the function of any single group, both the knowledge and the skill of a profession may be increasingly shared with others who are working in the common interest.

The organization of a profession thus becomes an effort not to maintain a status for the members but to enable the group, through its relationships within itself, to function more effectively than if its members had no such opportunity for united effort. Organization is needed, again, to make possible the relationships between different professions in the interest not of professional status or selfish advantage, but rather for the more effective functioning of each group in relation to every other group. Each group in its field must be the pioneer to push forward the frontiers of knowledge in order that the knowledge may ultimately become the common possession. At any one time, therefore, each group in its own specialty is necessarily in advance of the community, both in knowledge and in skill, but the share of the community in the ultimate objective of any profession must be constantly in mind.

These generalizations are advanced merely as a basis for defining what seems to us the stage of development of the profession of social work. Social workers have lacked, perhaps fortunately, the type of organization which is designed to maintain a privileged status for its members. The tasks of social workers have in their very essence depended upon the altruistic spirit of the community. The need for professional organization of social workers arises from the recognition that a group can function more effectively than a mere collection of individuals. But the dependence of the group upon enlightened citizen-

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ship is increasingly recognized as the guiding principle of the professional organization of social workers.

HISTORICAL DEVELOPMENT OF SOCIAL WORK

In contrast to the historical development of other professional groups, which began with the association together of practitioners and which only in recent years have undertaken the education of the community to cooperate in the work rendered by such professional groups, social work as a profession has grown out of a consideration of the problems involved by a broad body representative not merely of persons professionally engaged in such work but also of public spirited citizens. This body is the National Conference of Social Work, which held its first meeting in 1874 in connection with the American Social Science Association. Starting as the National Conference of Charities and Correction it grew in scope and numbers and, under its present name adopted in 1917, it is approaching its fiftieth year.

The first National Conference included representatives of boards of public charities from nine states and the discussion covered state laws and administration with reference to insanity, criminality and pauperism. During the first decades discussion centered upon the care of "dependents, defectives and delinquents" but even in the second year some attention was given to such problems as immigration. In the second year, also, it was found that persons not officially connected with public charities and correctional boards were desirous of attending and were competent to contribute papers.

The discussion of the care of dependents, defectives and delinquents was soon supplemented with an emphasis upon prevention, and this word, with such other declarations as "the charity of today is the justice of tomorrow," became the keynote of the Conference. In the last two decades the widened range of topics has brought into prominence a new and constructive note. The discussion of leisure time activities, such as playgrounds and recreation leadership, has been approached not merely from the standpoint of preventing delinquency and ill health but also from the standpoint of developing a fuller and richer life and creating a spirit of tolerance and coöperative work. Similarly, the discussion of industry has not been content with papers on the care of the victims of industrial accidents, for example, and not even with preventive measures, but has taken up such fundamentally constructive lines as occupation in relation to standards of living, emphasizing the vital concern of the whole community therein.

From a handful of people dealing with problems in comparatively narrow fields of social effort, the Conference has thus grown so that every state is represented in an attendance numbering several thousand, and the fields of effort include family welfare, child welfare, hospital social work, occupational therapy, probation, protective, parole and prison work, psychiatric social work, school social work, visiting housekeeping, vocational guidance, adjustment of immigrants, coördination of social agencies, community centers, boys' and girls' clubs, playground and recreation, social settlements, civic work, housing, social legislation, public health nursing, social hygiene, mental hygiene, tuberculosis prevention, child health, industrial hygiene, community health activities, social research, social statistics, industrial investigation and public and private employment work.

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RECOGNITION OF THE NEED FOR PROFESSIONAL TRAINING

With this growth in the consideration of the problems of *social work* it was not until very recently that attention was directed to the qualifications of the *social workers*. For decades the Conference was content with its often expressed dictum that "philanthropic effort needs not only a kind heart but some intelligence." Little thought was given to defining the real substance of this intelligence. Even after much progress had been made in analyzing scientific methods of handling the various types of work, there was a persistence of the conception of the worker as merely a benevolent person "doing good to the poor."

In 1897, however, a paper was read by Miss Mary E. Richmond on "The Need of a Training School in Applied Philanthropy." In 1898 the New York Charity Organization Society established a summer training class, directed by Dr. Edward T. Devine, which has now grown into the New York School of Social Work, the leading training school in the country, under the direction, at present, of Porter R. Lee. In 1905 Dr. Graham Taylor, of Chicago Commons Social Settlement, established the Chicago Institute of Social Science, developing it into the Chicago School of Civics and Philanthropy, which has recently been succeeded by the Graduate School of Social Service Administration in the University of Chicago. At about the same time schools were established in Boston and Philadelphia. An essential characteristic of all these schools is their close relationship to the work of social agencies and organizations as providing opportunities for the student to engage in supervised field work.

In 1919, when an Association of Training Schools for Professional Social Work was formed, there were admitted to membership nine universities and colleges and five independent institutions as offering professional courses requiring the full time of students for one year or more. The membership of this Association now numbers twenty-two.

Recognition of the importance of professionally trained practitioners in social work was impressively given at the National Conference of Social Work in 1915 by Professor Felix Frankfurter, of Harvard University Law School, who said:

> I submit that what has been found necessary for adequate training for those social activities which we call the profession of law and medicine, is needed for the very definite, if undefined, profession we call social work. I can not believe that the preliminary training of a lawyer, most of his life spent in the adjustment of controversies between individuals, requires less of a background, less of an understanding of what has gone before in life, less of a rigorous critical discipline, than is needed by those of you who go out to pass judgment on the social conditions of whole communities, by those of you who administer laws like the minimum-wage laws, and the other social legislation now administered . . . by social workers. Secondly, I can not believe that a training fit to discipline people who shall guide and deal with the social forces of the day, can be done in less time than the time found necessary for the training of lawyers. Thirdly, I can not believe that the experience of medicine and law as to the quality of teachers to train men in those professions, applies less in regard to teachers of social work.

ORGANIZATION OF PRACTITIONERS

Organization of the practitioners has developed in three ways: In local groups, in groups of workers in specialized fields, and more recently in an all-inclusive association. Locally, social workers' clubs have been formed

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in many cities. These have for the most part been loosely organized, including not only professional workers but interested laymen for the discussion of social work problems. In recent years, however, an increasing number of these clubs have shown a more definite professional consciousness and have established standards of admittance limiting their membership to professional workers. In specialized fields such organizations have grown up as the American Association of Hospital Social Workers. The National Federation of Settlements, while in some measure attended by members of boards of trustees and volunteer workers, is mainly composed of those who are professionally engaged in settlement work. The National Association of Visiting Teachers and Home and School Visitors, organized in 1919, has now one hundred and fifty members, representing twenty-eight cities, half of whom are professionally engaged in this field of work. The American Association for Organizing Family Social Work unites the family case workers throughout the country in coöperation with the boards of directors of family welfare and charity organization societies to define and promote standards of work in this field. To mention but one more example of the organization of social workers in a specialized field, the National Conference of Tuberculosis Secretaries brings together each year several hundred workers who are serving as secretaries or managing directors of tuberculosis prevention societies.

It is significant that the American Association of Social Workers, which is developing as the all-inclusive body of social work practitioners, is the outgrowth of an effort to study the qualifications of individual workers for specific positions and to place them. From the experience of the National Social Workers' Exchange as a cooperative undertaking of social workers to provide an employment service, there came a growing appreciation of the need for more definite study of standards of qualifications and vocational analysis of the various types of work. Committees of the members of the Exchange actively engaged in such studies, and this effort rapidly developed a consciousness of the professional implications which were involved. In 1921 the annual meeting of the Exchange, attended by more than 1,000 members, voted to expand the organization into the American Association of Social Workers.

With a membership of two thousand and rapidly growing, this Association has earnestly undertaken the consideration of its own professional standards for admittance to membership. After careful discussion throughout the year by local groups in more than forty cities and by the national Council of the Association representing all sections of the country and all fields of specialization, the next annual meeting of the members in June, 1922, will have these standards before it for adoption.

DEVELOPMENT OF PROFESSIONAL REQUIREMENTS

Professional requirements are being worked out not merely on the basis of standards for admittance to this all-inclusive body, but also through careful consideration by committees of leaders in the various specialized fields. For example, a committee of the most experienced secretaries of tuberculosis prevention societies is at work on an analysis of the technique in this field and the qualifications in training and personality which are necessary. It is expected that as similar committees in each of the

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specialized fields of social work conduct similar analysis, in coöperation with the research activities of the Association, definite conceptions and standards of what constitutes a well-equipped and efficient practitioner in each of these fields will be evolved. The combined result of such work through a course of years should bring about a more definite status for professional social workers.

The vocational bureau of the Association, continuing its service in providing vocational information and advice and placement of workers, affords through the body of data gained from its study of individual cases a basis for analysis and research. This has already been recognized by Professor James H. Tufts of the University of Chicago through his use of such data in his study of training for social work, made for the Russell Sage Foundation.

In the development of standards of professional training the Association as representing the body of practitioners is coöperating with the Association of Training Schools. The latter, at its meeting in Pittsburgh in December, 1921, invited the Association of Social Workers to appoint a committee of practitioners for this coöperation.

The first result of the Association's research is a pamphlet, *The Profession of Social Work*, which presents, concisely, vocational information covering all the fields of social work. This is proving of great value in colleges and universities, in schools of social work, in organizations choosing their staffs and in response to many requests for information about fields and opportunities. More than four thousand social workers are registered with the Association's vocational bureau, each of them providing information concerning training and experience. More than three thousand persons additionally have come to the bureau for information about training and opportunity. As the Association's research further develops, information will be made available to practitioners, executives, boards of trustees and universities. A concrete instance of the need for such vocational information is to be seen in a recent request from the California State Civil Service Commission which stated that a number of positions, all in social work, were to be added to the State Civil Service. Information and advice were sought as to the salaries that ought to be paid and the qualifications which the workers should have.

The growth of social work as a profession has been greatly facilitated by periodical publications in the field. Foremost among these is *The Survey*. The uniting of *Charities* and *The Commons* in 1904, and the absorption of six other smaller periodicals, developed one authoritative journal serving both as a medium for the interchange of social information and experience and as a means of acquainting the general public with the facts concerning social conditions and the aims and methods of those at work for improvement. Many of the specialized fields have established their own publications, as for example *The Playground*, serving the play and recreation movement; *The Family*, serving the family case workers; the *Journal of the Outdoor Life*, serving the workers in tuberculosis prevention and also helping to educate the community along this line, and *Hospital Social Service*, serving those interested in that field.

Mention should also be made of the influence which the development of the profession of social work in America is having throughout the world. Visitors from European countries frequently show how much they are impressed by the organization of social

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work in this country. And it is significant that the Czecho-Slovak Legation in America has no military attaché but is the first to have a social service attaché whose business it is to observe and investigate social effort in America and send back information to his home government.

DEVELOPING CONSCIOUS TECHNIQUE

At the National Conference of Charities and Correction (now called the National Conference of Social Work), held in Baltimore in 1915, Abraham Flexner discussed the question, "Is Social Work a Profession?" He developed six criteria for professions:

(1) They involve essentially intellectual operations with large individual responsibility.
(2) They derive their raw material from science and learning.
(3) This material they work up to a practical and definite end.
(4) They possess an educationally communicable technique.
(5) They tend to self-organization.
(6) They are becoming increasingly altruistic in motivation.

These criteria he applied to various occupations. He ruled out plumbing as acting on the instrumental rather than on the intellectual level, and as having shown "as yet no convincing evidence that the spirit of plumbing is becoming socialized." Banking he disqualified as being as yet far from "the application of economic science," with its practices still too largely empirical, and with the motive of financial profit too strongly stressed. Medicine, law, engineering, literature, painting and music he regarded as "unmistakable professions."

Social work he excepted as a vocation requiring intellectual activities but lacking independent responsibility, because he held that having localized a problem "the social worker takes hold of a case, that of a disintegrating family, a wrecked individual, or an unsocialized industry," but is driven usually to invoke another agency, the doctor for illness, the school for ignorance, the legislator for poverty, so that "the responsibility for specific action thus rests upon the power he has invoked." Social work, in brief, is a mediating activity, without the definite and specific ends of medicine or law, but appearing rather "as an aspect of work in many fields." In line with this thought he concluded that "well-informed, well-balanced, tactful, judicious, sympathetic, resourceful people are needed, rather than any definite kind or kinds of technical skill."

This speech of Dr. Flexner's has been a useful challenge to social workers. Many of them are prepared to agree that social work gives evidence of having arisen out of altruistic motives rather than technical qualifications. They are quite ready to grant that the effectiveness of social work derives much of its power from close contact with other professions and from the ability to persuade members of other professions to bring their skill to bear upon the groups who are living in the community at an economic or social disadvantage.

CONTACT WITH THE OTHER PROFESSIONS

Close contact with the other professions is one of the inspirations of social work, but the contact consists not merely in the social worker's calling in the doctor or the engineer. Experience seems also to show that the more socialized the other professions become, the more they turn to social workers for light. When doctors become interested in public health not only are they the allies of social

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workers in recognizing that the causes of poverty are also the causes of ill health, but they seek, also, to appropriate the knowledge and experience of social workers in dealing with these causes of poverty as problems for the individual or for the community. Likewise, nurses who aim to work in the field of public health rather than in private work seek instruction in schools which have been built up out of the experience of social workers.

More recently, the management engineer and the social worker have found coöperation necessary. The management engineer has discovered that the success of industrial management is largely conditioned by skill in human relations, and that the efficiency and coöperative attitude of a labor force is directly affected by the organization of life in the community, while, in turn, industrial conditions affect the community life. Naturally, when the management engineer arrives at that stage of thinking he finds that the social worker, approaching from a different direction has also arrived at the place where recognition of the relations of these two groups, the engineer and the social worker, become highly desirable for the success of each group. Industry is being invaded by social workers, who are bringing their experience to bear upon problems of personnel and research as they affect human relations. The Taylor Society has proved its recognition of these facts by admitting to its membership the so-called "social scientist," and recognizing in the experience of social workers in industry the necessary qualification for admission to a professional group concerned with problems of management.

The invasion of the schools by social workers is also proceeding rapidly. The visiting teacher finds the need to build upon the experience of the social case worker. A recent report of the Vocational Guidance Association on the technique of training for that occupation reveals common ground with the experience of social workers. Indeed, the report was prepared by a committee whose secretary is also one of the secretaries of the American Association of Social Workers.

Similarly, the ministry is seeking to share in a type of experience which may be called, for want of a better name, the technique of the social worker.

Only as social workers are prepared consciously to formulate their experience as a guide for the practice of others, to make it available for these other groups, can they lay claim to the possession of technique. Their claim to permanence as a group, at least under present conditions, rests upon their ability to push forward to more effective experience and a clearer formulation of it, than at any one moment is shared with other groups. Toward what frontiers of skill and knowledge are social workers now pressing?

WHAT IS SOCIAL CASE WORK?

Under this title Mary E. Richmond, Director of the Charity Organization Department of the Russell Sage Foundation, has just published a book which she describes as "an introductory description." Incidentally, it is significant that it follows *The Good Neighbor*, in which Miss Richmond stresses the common possession of neighborliness, and *Social Diagnosis*, in which she subjects the experience of case workers to the same sort of searching analysis that physicians in medical schools are subjecting the recorded cases of medical practitioners.

"There was real teaching in the

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world long before there was a science or art of teaching," writes Miss Richmond in answering the question, What Is Social Case Work? "There was social case work long before social workers began, not so many years ago, to formulate a few of its principles and methods. Almost as soon as human beings discovered that their relations to one another had ceased to be primitive and simple, they must have found among their fellows a few who had a special gift for smoothing out the tangles in such relations; they must have sought, however informally, the aid of these 'straighteners,' as Samuel Butler calls them. Some teachers have had this skill, occasionally ministers of religion have had it, and secular judges, and physicians; though at no time has it been the exclusive possession of these four professions or of any one of them."

An objection to regarding skill in social case work as the technical possession of a few is voiced by Miss Richmond.

> Even in our own day, the skill of the social case worker who is able to effect better adjustments between the individual and his environment seems . . . to many . . . neighborliness and nothing more. There is a half truth in this neighborliness theory, for the good case worker must be both born and made, but its element of error is the failure to recognize how much is being done in social work to develop a native gift through training and specialized experience.

Miss Richmond's definition of social case work implies in itself a task requiring as much training and as much content as that of the teacher: "Social case work consists of those processes which develop personality through adjustments consciously effected, individual by individual, between men and their social environment."

How far actual results were achieved in social agencies by the skill which any intelligent person "without previous training but with tact and good will" might possess was a question which Miss Richmond sought to answer by a careful analysis of typical cases. She listed each act and policy of each case worker responsible for the treatment described. She secured six long lists of items which fell under the general heads of "insights" and "acts." She divided these again and secured the following four divisions:

> Insight into individuality and personal characteristics
>
> Insight into the resources, dangers, and influence of the social environment
>
> Direct action of mind upon mind
>
> Indirect action through the social environment

Her conclusion was this:

> As I examined the items of each list of particulars carefully, it seemed to me that each item might possibly have been thought of and carried out by a non-specialist. But trained skill was shown in the *combination* of these itemized acts, which no untrained person, however intelligent, would have achieved.

It is impossible within the limits of this article to analyze more fully the claim of methods of interviewing and all of the other acts of diagnosis and adjustment to be regarded as the technique of case work. It is only possible here to point out that a department of the Russell Sage Foundation is devoted wholly to research, teaching and publication in the field of family welfare, in which social case work is the instrument. Moreover, in the American Association for Organizing Family Social Work, which includes in its membership family welfare agencies throughout the country, emphasis is consistently placed upon a type of service which recognizes that one learns by experience and by

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knowledge how best to achieve a desired result, and that this experience can be recorded, analyzed and passed on to others. This kind of case work is applicable not only in the work of family welfare agencies, but in all the forms of social work with individuals, such as the activities of the probation officer, the visiting school teacher and the vocational guide, and even the personnel director in industry who is charged with responsibility for adjusting individuals to one another and to their environment. By this process of training the native ability, the family welfare organizations have emerged from the mere providing of food and shelter for the homeless to the giving of service analogous in the social field to that of the doctor for physical ills.

Is There a Technique for Group Workers?

The social settlement movement differed from the older relief organizations or even from the present more highly developed family welfare agencies in its emphasis upon activities carried on for and by whole groups who constituted the neighbors of the settlement workers. Boys' and girls' clubs and debating societies in a settlement were a recognition of the value of the group for which more recent developments in social psychology are giving a scientific basis. It seems fair to say that settlement workers in general have achieved less by way of formulation of experience in methods of group organization than have the case workers. The settlement desired to emphasize what might be called "mere" neighborliness and to eliminate any tendency to regard the residents who made up its household as more expert in neighborliness than any of their neighbors.

Out of the great need, however, for new recognition of the value of the group in a limited neighborhood may develop the clearer formulation of experience.

Reform Movements

In contrast with work for individuals, either separately considered or in groups, are what might be called the mass movements for reform. Through them efforts are made to modify environment, rather than to modify or adjust individuals in relation to their environment. Social legislation is one manifestation of the mass movement for reform.

Perhaps the best illustration of a consciously developed method of accomplishing reforms is the social survey. It was a committee organized by the former *Charities and the Commons* —the magazine of social work now called the *Survey*—which initiated and directed the now well-known Pittsburgh survey. The term "survey," itself, was taken over from the engineering profession by this group of social surveyors. Since that time the importance of the survey as the diagnosis of the community, directed toward the improvement of social and living conditions for all its people, has been demonstrated not only by the number of surveys undertaken, but also by the recognition that here was a tool requiring a combination of skill in its handling. How to bring groups together, to act together for a common object, how to discover and record facts with such insight as to develop a sound program of action, and how to communicate all this knowledge and the motive power for putting it into effect to the entire community, may be seen to constitute the technical problem of making surveys.

Research

The last of the four big divisions of social work, conceived functionally, is

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research, if work with individuals, work with groups, and mass movements for reform be regarded as the other three. How far research which deals with social material can be accepted as ranking with pure science is a question not yet fully answered. Some years ago Mrs. Sidney Webb, in an illuminating article published in *London Sociological Papers*, 1906, discussed the claims of social research to be regarded as a science. She pointed out that science uses three methods of procedure—observation, the analysis of documents and experiment. Of these, social research may use observation and documentary material. But in experimentation the individual investigator in social science is seriously limited. He cannot, for instance, easily organize a trade union merely in order to study it and test its results, as a chemist can combine two substances and watch what happens. Nevertheless, the social scientist may bring to bear the power of observation upon the activities of the individual, a group, or a community, so as to record what might be regarded as an unconscious, involuntary experiment.

The inadequacy, from a scientific point of view, of many of the experiments which a community undertakes is the failure to study their results and the difficulty of isolating factors so as to measure their relative importance.

If the method of experiment has its limitations for the social scientist he may find some compensation in the fact that he has a method of procedure exclusively his own, as compared with the laboratory scientist, namely, the interview. The interview may be merely for the purpose of securing information from someone who possesses it, as the historian might find in the oldest inhabitant a source of facts in the history of a town. Generally, however, the individual has a larger interest than this for the social scientist, for he finds in him not only a source of information, but a subject for study whose attitude of mind, experiences and emotions are all part of the material of social discovery.

As in social research it is possible to recognize these definite methods of procedure, so it is also possible to develop the best way of approaching the task, to study forms of record keeping, and to acquire consciously the methods of interviewing which will yield the most accurate results, as contrasted with the clumsy efforts which may make it impossible to disentangle the true from the false. Here, as in all science, the method must evolve out of recorded experience, and the output of social research in the past few years seems to warrant the hope that it will give the basis for a more consciously developed knowledge of how to make discoveries in the field of social relations.

PROFESSIONAL ETHICS FOR SOCIAL WORKERS

While thus far no definite and recognized code of professional ethics has been agreed upon by social workers, their devotion to ideals of service rather than to pecuniary reward, which has been uppermost since the beginning, is characteristic of a high ethical plane in their attitude toward their work. And the questions of ethics with respect to many problems which arise in daily practice are a subject of earnest thought and discussion in many groups. Out of this group thought and discussion a formulation of a code may be expected. The following tentative statements are suggestive of certain principles which would enter into such a code of professional ethics for social workers:

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I

Practical activity and methods which can be tested by results form the real content of social work. Its moving force is the will of the people to subordinate the selfish interests of any individual or group to the social interests of the better community. If these aims are to be accomplished, the social worker must find his satisfaction primarily in achievements of the community, the group or the individual whom he serves. This aim will underlie his code of ethics in his relation to the community, to his clients and to his fellow-workers.

II

His zeal for the welfare of the community must be great enough to impel him to seek an exacting standard for testing his own efficiency. He will be eager to learn of the new discoveries of others, and alert to increase his knowledge of the social sciences whose application to the problems of social work will increase its effectiveness.

III

In his relations with other social workers, he will have a professional interest in the accomplishment of the group, will feel, therefore, a concern in the training and achievements of his fellow-workers, and will be eager to contribute his own experience to the knowledge of the group. He will be especially interested in the development of younger workers, and in such conditions of work as will increase the capacity of every member of the profession and secure for each the opportunities which will best utilize and develop his powers.

IV

As the effort to subordinate the selfish interests of any group to the welfare of the community will necessarily involve the social worker in controversial issues, he must make scientific devotion to truth an essential in his work. The quality of his work and his independence of judgment and action must never be subordinated to the consideration of financial support.

V

He must be free to act and to express his views as a citizen. His guiding principle must be, however, that he has chosen to serve the community through social work and that, therefore, his best service as a citizen will be to conform to the standards of social work, furthering the scientific study of problems and the development of programs of action based on experience and facts. He will also be mindful of the importance of educating the citizenship of the community to meet its own social responsibilities.

To those who challenge the right of social work to be called a profession, the answer of many social workers is that to them the question is to a certain extent academic and less important than the effectiveness of their service. They have, however, recognized the importance of studying methods, attracting able persons to their ranks, working out methods of training and, in brief, so improving the quality of the social workers as to make social work itself more effective. The answer to the question, "Is social work a profession?" is to be found not in its present content as it is most commonly understood, but rather in its activities; not in the status of social workers as a group apart, but in the process of functioning as a group with conscious recognition of its relations with other professions. After all, the test of public service in every profession ultimately rests in its power to enlighten all the citizens of the community.

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Foreword: Ethics in Journalism

By E. J. MEHREN

Editor, Engineering News-Record; formerly Chairman, New York Conference of Business Paper Editors

The teachers of the people must be actuated by high principles; otherwise society will suffer. Newspapers, magazines and business papers form a continuation school which affects throughout life the graduates of every other educational institution, be it common school or university. As is the press, so will be society.

Observance by journalists, then, of the highest ethical standards is an imperative social necessity. There have always been sound rules of journalistic conduct, unformulated, seldom written, that have guided the best of our newspapers and magazines. The wide confidence which these journals enjoy is evidence of the extent to which they have lived up to high principles. On the other hand, there have been serious lapses.

It is with the purpose of cleaning up the sore spots, of raising the good to the level of the best, that we find in different parts of the country efforts to formulate the journalistic conscience into codes. Some of these efforts are set forth in the articles by Dean Allen, Mr. Norris and Mr. Hill.

Primarily, a code is a means of internal professional discipline for each group. We must be our own judges. We must shame the violators and help reform habitually offending papers.

But a code has a secondary value. It enables a profession to justify itself to the public. House-cleaning cannot go on without some evidence of it coming to public knowledge. Then will ensue confidence; esteem will replace the distrust that may now exist.

Codes alone—mere expressions of sound standards of practice—will do some good, but to be of full value they must be accompanied by machinery for their enforcement and punishment for their violation. The medical profession enforces its codes through the county medical societies; the legal profession, through the state bar associations. There is need in the journalistic world of an organization or organizations through which the social responsibility of journalists can find expression. Here and there are state associations of newspaper men and local clubs. The business paper editors have their organizations. Is the time not ripe for an Institute of Journalists which will carry the banner of high purpose for the whole profession and stimulate the organization of functioning subsidiary or affiliated bodies in every part of the country?

With the heavy responsibility resting on journalists, a responsibility of supplying mental food and guidance to millions, a responsibility of teaching the entire people, can journalists afford to do less than bind the whole craft together for the erection and maintenance of high standards?

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The Social Value of a Code of Ethics for Journalists

By Eric W. Allen
Dean, School of Journalism, University of Oregon

RECENT criticisms of the American newspaper, sweeping and condemnatory, of which Mr. Upton Sinclair's *Brass Check* may be taken as the extremest example, ignore so many factors in the social problem of the press, in its past, in its present, and in its future, that the final result is much heat without any appreciable light.

Yet the questions Mr. Sinclair attempted to raise, and failed to raise in any effective way in the mind of the profession because of the intemperance of his methods, are important ones and worthy of study. An educated and idealistic newspaper writer, employed by one of the leading New York dailies, suggested to the writer that Mr. Sinclair's book was important enough to deserve—what? Not confutation, but rewriting by some careful, independent, trained investigator, who could work without excitement, who would accurately define all his terms, and guard and support every generalization with adequate documentation. For it is the generalizations in the book that are important if true, and in so far as they are true.

Fresh from a rereading of Mr. Sinclair's eloquent Philippic it was the privilege of the writer to serve as host to a hundred responsible newspaper editors, most of them newspaper owners, representing very nearly all the larger papers of one of the western states. They had travelled, some of them, hundreds of miles to be present at a two-day session at the School of Journalism of their state university for the discussion of newspaper problems. Nor had these discussions to do principally with advertising rates, wire service, charges for job printing, or wages. The point of most intense and general interest in the conference was the adoption of a code of ethics for journalism which has since been described by the *Editor and Publisher* of New York, a leading professional magazine, as striking "the highest note that has been sounded in American journalism." This code was passed unanimously, and a subsidiary motion was passed that it should be given fullest publicity in order that the public may "check us up if we fail to observe it."

Salvation of the Press with Its Own Personnel

The writer sat where he could see the faces of these men; their records, their successes and their failures he had observed for years; he knew the spark of genius here and perhaps the mental limitation there. With many he had been asked to consult in times of personal crisis and honest doubt. Then came to his mind the picture of a debased press, so fervently presented by the college professors, the sociologists, the free lances, of whom Mr. Sinclair is only one,[1]—the picture of slavish repression, malicious carelessness, conceited ignorance, and contented corruption—and the thought came to him that the salvation of the Ameri-

[1] No slur is intended upon the report of the Interchurch World Movement on conditions in Pittsburgh. This document is of a different type and calls for a reasoned answer from those who feel aggrieved; clamorous counter-propaganda and charges of sedition are aside from the point. The reaction of the press itself to the report is shown on pp. 311 and 312 of *Public Opinion and the Steel Strike*. Harcourt, Brace & Co., 1921.

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can press is with these editors more than it is with those critics; that the critical picture is overdrawn and lacks perspective and proportion.

The most virulent critics of the press as it exists do not deny the presence in the working personnel of the profession of a tremendous element of good will, character, technical knowledge, and aspiration for social improvement. The most satisfied of the newspaper's defenders—and there are many who point with pride to the contrast its present condition makes with its often erring past—cannot overlook the imperfections of the present and the need for vigilant care lest progress slacken and retrogression or decay set in. He would be an incurable optimist or a careless observer who would say that the morale of the press has not received grave wounds in the period of the War and Armistice. Yet even since 1914 certain constructive changes have been initiated within the body of the profession itself that may ultimately far outweigh in effect the degenerative influences of the orgy of hatred, narrowness and propaganda. Some of these will be specified later.

The modern press, as we know it, is less than a hundred years old. Three generations, in this country at least, have witnessed nearly the whole of the evolution of the journalist, the man who regards the gathering, presentation and interpretation of the news of the world as a science and an art, and its practice as a profession. Before, say, 1830 we have in journalism only the psychology of the pamphleteer and the politician applied through one of the collateral activities of the job printer. Even today a careless apprentice system furnishes nearly all the training for what must become, in any really well-ordered system of society, one of the most learned and scrupulous of the higher professions.

The problems of journalism can never be disconnected from the dilemmas that confront society as a whole and every newspaper office decision arises in some way from and has a reactive effect upon economic and social forces that play upon the community at large. In a perfect society good journalism would be easy. Yet he who proposes to reform society as a necessary precedent to developing a better journalism is lost to all sense of proportion; the very function of good journalism is to work toward a better society; the newspaper is to be justified as an instrument and not as an end. To wait for society to demand better newspapers is to wait too long; besides, there are more signs of hope within the profession itself than are yet to be observed in the effective demand of newspaper patrons, subscribers and advertisers—society.

NEWSPAPER PUBLISHERS OF TODAY

The newspaper publishers of today are men of varied origins and training. Many began their careers as printers; others inherited or invested in newspaper properties. The advertising solicitor, the circulation man, the newsboy, the office boy, the printer's devil, have developed into controllers of policy as frequently as the man who served his apprenticeship, such as it was, in the gathering and writing of news. An acute business judgment is a more uniform characteristic than any familiarity with the social effects of journalistic policies. Yet it is this personnel that is the strongest force behind the effort to raise journalism to a position as one of the learned and scrupulous professions. It is these men who are the backers of the new schools of journalism and it is they who encourage the teachers of journalism to criticise freely, to set up such ideals as they are capable of conceiving and

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presenting, to face the facts of the situation and to seek ethical solutions. The sons of such men form a large portion of the student bodies of the better schools of journalism which have been established in the last dozen years.

These, too, are the men who, in many of the western states, gather year after year in their state universities in ever increasing numbers to discuss professional problems with each other and with the faculties and students of the schools of journalism. It was such a body of men that adopted the Kansas Newspaper Code in 1910, and such a body that decided to make clear to the public a rather definite statement of their professional practices in Oregon in 1922.

It is becoming old-fashioned in such meetings to deny that there is room for further progress in journalism, or that study of newspaper problems may be of some effect. The old tendency to resent and sweepingly repudiate anything said in criticism of the press is disappearing from the newspapers themselves. The old-time editor not only did this but did it in such a way as deeply to wound the spirit or reputation of the person who dared to criticise.

SOCIAL NEED FOR A CLARIFIED CODE

The old theory—for public consumption—was that all newspaper men, without taking thought, naturally from the first day of their careers mystically knew all the ethical implications of their acts.

"The very fact that it becomes necessary to publish a definite code of the ideals to which *most journalists have subscribed from the day they entered the profession*," says Henry Ford's *Dearborn Independent*, "is proof that somewhere all is not as it should be." The premise and the conclusion of this reasoning both seem to be that perfection has not yet been obtained; which is correct, but the italicized words picture a miracle that has not happened.

The *New York Times*, in the more light-hearted of its editorial columns—"Topics of the Times"—takes much the same stand, narrowing the accusation down to the Oregonians whose adoption of a code calling for papers to be conducted, says the *Times*, "as reputable papers have always been" is characterized—light-heartedly—as a confession of past wickedness. Light-hearted, too, was the *Times* in violating three or four sections of the code by stating out of its own inner and incorrect knowledge that the Oregon document was not written "by a newspaper man or even a journalist."

The written code is an instrument of education. It is not a confession of wickedness nor is there anything light-hearted about it. Its function is to make clear not only to the university trained neophyte but to the untrained man in the profession, to the critical public and to the publisher himself the premises and the type of reasoning upon which newspaper decisions must be based and upon which erroneous decisions are rightly to be criticised.

The reasons behind newspaper decisions are not, upon the whole, well understood by the public. Many a conscientious act, public spirited in its intent, is interpreted as wanton cruelty or sordid sensationalism, or attributed to commercial motives. On the other hand, many a publisher utterly mistakes what the public interest really demands, or even acts upon incentives which he regards as legitimate but which sound principles of journalistic ethics should forbid.

If any body of thought ever demanded clarification, systematization,

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and logical analysis, it is that of the ethics of journalism. The "codes" so far formulated, are only a basis—a sound basis, it is to be hoped—for much further study and discussion, leading finally to treatises, much more complete, upon the actual practices accepted by the profession.

ETHICAL DILEMMAS OF THE WORKING JOURNALIST

A few problems, easy perhaps to closet philosophers, but still extremely puzzling to the working journalist, may be cited to demonstrate the need of ethical study and teaching.

What is the highest duty of the press in time of war—a great war, believed to be a righteous war, a war dangerous to the very existence of the nation? "Tell the unvarnished truth as I see it," replies one, and if he sees the truth in unpopular aspects he loses his paper and perhaps his liberty. "Anything to help win the war," says another extremist. Most editors in the last few years have stood on middle ground, some toward one limit and some toward the other, leaving the public confused as to what to believe in the papers, and more than ever inclined to doubt the integrity of the press.

The Oregon Code, like all the journalistic codes published to this time, is emphatic throughout in its emphasis upon the importance of telling all the truth; yet the qualification enters inconspicuously in various connections that "if the public or social interest demands"—decidedly not the personal or commercial interest of the publisher or editor—suppression is allowable.

What does this mean?

What does it mean in case of a second-rate war, or a third-rate war with Haiti or Santo Domingo? What does it mean in such a struggle as that in the northwest in which the Non-Partisan League is involved? Or when communism threatens what most editors consider the social and public interest? Even the struggle between parties, far less bitter than of old, may still supply honest editors with doubts. The editor's conception of the "public or social interest" is an element that it seems dangerous to leave in the code or to take out. Is it, after all, or will it in time become, his duty to tell the truth though the heavens, in his judgment, will fall?

A code must not legislate. There is no organized body in journalism that has sufficient prestige to speak for the profession or greatly to influence its practices. Yet newspapers vary from the honest and courageous to the supine, and a code can set as a minimum the best practices of the profession, and as the optimum the state of perfect knowledge, perfect good will and perfect courage. And in both its aspects, the disowning of inferior practices and the setting up of an ideal, the code can become a constructive influence in the profession.

The editor's belief as to what constitutes "public and social interest" can be affected only by the gradual moralization and rationalization of all society, by education of the young newspaper men and by logical criticism. For his informed judgment no written rule can be substituted. But more truth and much less concern with immediate results seems to be the path of progress.

If a code could legislate, there is one problem of modern journalism, greatly intensified since the War, upon which a code maker would be tempted to try his hand. It is serious enough, perhaps, to attract the interest of the state, but there is little probability that any existing legislative body would adopt sound views upon the subject. It is that of propaganda.

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THE DAY OF THE "PROMOTION" AGENT

The despised "press agent" of an earlier day has developed first into the "publicity man" and then into the "promotion" expert. Now he often bears a still more dignified title. He is, perhaps, in a large corporation a fourth vice-president; in politics he is paid with tax money as "secretary" to this or that official or "assistant secretary" in some department; he thrives independently as an "agency"; in large organizations he often multiplies into a department; in some scores of universities he is camouflaged as "president's secretary" or as "professor of journalism," with duties to practice the lower functions of the profession rather than to teach the higher. His name is Legion. He was formerly a newspaper man, and a good one. He left the profession for a higher salary than he was earning as reporter or copy editor. The increasing power and prestige of the "promotion" industry helps to anesthetise the wound to his professional conscience and pride. As a trained newspaper man he needed no written code to tell him that it was wrong to sell his pen and to write news for the public under the censorship of a private interest.

He is a real problem; scolding will not eliminate him. He is respectable. After a course in sophistry, necessitated by his self-esteem, he comes to regard himself as ethical, and his own careful statement of his functions exhibits him as a useful member of society. He worked for the government and helped win the War. Newspapers reject the great bulk of his copy, but apparently they accept enough of it to justify his existence economically.

No section of the Oregon Code has aroused so much discussion as the following sentence:

> We will not permit, unless in exceptional cases, the publishing of news and editorial matter not prepared by ourselves or our staffs, believing that original matter is the best answer to the peril of propaganda.

Without the saving clause "exceptional cases," this rule would be as futile as King Canute sweeping back the tide. A great many cases are "exceptional" to this rule in average newspaper practice the country over. Not only is much of the most able and most highly paid journalistic talent of the country working today on these "exceptional cases" for private interests but the new system, that has grown so great since the War demonstrated the efficacy of organized propaganda, has obtained nearly exclusive control of much of the most important news matter, and has nearly shut out the professional journalist from many of its sources.

No more than any other tradesman does the promotion agent live by his vices. He is strong because of his virtues. The news he writes he writes well. He is well trained; he has every reason for exercising great care in his work. He has sympathetic access to the prime movers in the events he records; he fortifies himself by reference to documents; he has greater leisure than the reporter and often devotes it to a sound study of his specialty. His employers value his work because it is more accurate, fairer (especially to them) than the articles that used to appear as the result of their verbal interviews with reporters, and because his articles, after they are written, can be examined and perfected before publication.

SOCIAL IMPLICATIONS OF THE PROMOTION SYSTEM

Therefore the powerful men of the community prefer to speak through their promotion agents and, as a corollary, no longer submit with the

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old freedom to the interviewing of the journalist. "There is my prepared statement; I have nothing more to add. If you have further questions to ask, leave them in writing and we will supply you with a supplementary article."

The social implications of this new system are serious in the extreme. The professional journalist is cut off from much of the most important and difficult work of his profession. He loses the stimulus that comes from the necessity of careful research in dealing with the more complicated sort of news. He has lost this important function partly because he did not learn to do it well, because he often preferred "features" to facts, because he sometimes wanted only a "good story," careless of the consequences to those most concerned, because he so frequently left the person who submitted to his questioning in a state of anxious and fully justified doubt as to the use that was to be made of his words.

But only partly. Powerful indiviuals never like to be cross examined, and now they have largely exempted themselves from the questioning minds of the reporters who, with all their faults, represented the point of view and, as best they could, the interests of the public. Much that happens in these days is presented to the public in the words of the actors or their satellites, without evaluation through the mind of the professional journalist.

Whole sections devoted to the automobile industry, columns of theatrical "notes" and even "criticism," book "reviews," much industrial, financial and real estate "news," college and university items, stories of organized uplift movements, and a considerable body of political and administrative news from governmental centers are furnished to the press in the form of publicity "handouts." Papers use varying amounts, some very little; some freely. All is more or less biased by private interest.

THE BUSINESS OF A WRITTEN CODE

The publication of a written code brings such questions as this to the forefront of discussion. They become more likely to receive thoughtful consideration. Perhaps the answer to this one—the problem of propaganda—will not be the elimination of the promotion agent; perhaps the best immediate step will be a practice of plainly labelling all such matter with its origin and the character of its authorship; it would seem that fairness to the public could scarcely do less.

Economic laws are behind most of the tendencies of present day journalism. The public is not willing to pay the newspaper for studious and unbiased and laborious researches into public and business questions while the private interests concerned *are* willing to relieve the newspapers of this expense for the apparently trifling privilege of editing the copy from their own point of view.

Police news and scandal, again, are cheap and easy to get. The officers of the law and the courts, paid by the state, assume most of the expense of gathering the facts. A single reporter, stationed at a strategic point, can collect columns of readable news of this kind in a single day, while the economic reporter engaged on an industrial item might require greater ability and training and yet have to work weeks upon a single article. The tendency, therefore, can scarcely be ignored to let industry and government assume the burden of the more expensive investigations, while the reporter employed by the newspaper concentrates upon the most productive matter—the cheap stuff.

If the public can be educated—and

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it can—to like the latter (routine superficial sensationalism) and to accept the former (news requiring research) in its new predigested form together with the little pinch of poison the press agent inserts, we have the beau ideal of gutter journalism.

The business of a written code is to point out to all concerned that there are deep social reasons why such tendencies must be resisted. Beyond the making clear of causes and results, ethics, as a science, does not go. From that point good will and clean intent must take hold; if these do not exist society is in a parlous state.

THE OREGON CODE

The Oregon Code, reprinted on page 283, was written in acute awareness of the actual conditions existing in the profession. It is complete only in the sense that the author of the code was conscious and deliberate in what he was leaving out as well as in respect to what he was putting in. Intra-professional relations are not treated at all; the code studies only the relation of the newspaper to society. What freedom of action an owner owes to an editor or an editor to a subordinate; to what extent the business office may advise the professional departments, and what attitude the latter may assume toward the business problems of the publication are entered into not at all. The Oregon Code is addressed to the responsible controlling power in the newspaper office; whoever may be in control, in general or in a particular matter, these are the principles he should follow.

PROPOSAL AND ADOPTION

To an unusual degree, also, the Oregon Code is, in its own state, a declaration by, as well as for, the controlling element in journalism. The adoption of the code was decided upon by the Oregon State Editorial Association in its annual session at Bend, Oregon, in July, 1921. This body is composed almost entirely of the owners of smaller newspapers, most of them weeklies or county seat dailies. The proposal was presented to this body by C. V. Dyment, a newspaper man of many years' experience, who in 1913 became a professor in the School of Journalism at the University of Oregon, and who has lately, in addition to his duties in the professional school, become Dean of the College of Literature, Science and the Arts. The Convention commissioned Mr. Dyment, who was the representative of the School of Journalism at the meeting, to take charge of drawing up a code which should lay the emphasis not upon such matters as the maintenance of rates, etc., but upon the ethical relation of the newspaper to the public. He was instructed to report at the winter meeting of the Oregon Newspaper Conference at the School of Journalism at Eugene, a larger body which includes besides the membership of the State Editorial Association strong representation from the state metropolitan papers.

Mr. Dyment first laid his code before the faculty of the School of Journalism, and then before the annual Conference which, as it happened, was the most representative body of newspaper men, both employers and employes, that had ever assembled in Oregon. All the Portland dailies were represented, nearly all the dailies in the state, an unusually large proportion of the weeklies, and a good scattering of the trade and class journals. In most instances the papers were represented by their controlling authorities in person.

CHARACTER OF THE CODE

The strength and the weakness of the Oregon Code can be expressed in the

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same sentence: It consists in a declaration of principles upon which virtually all experienced and conscientious newspaper men say they agree. It is chary of either prescribing or condemning concrete practices. Under this code practices will differ, for editors will apply these principles differently.

This can be illustrated from Section III, of the Code, "Justice, Mercy, Kindliness" (page 284). Here Rules 11, 12, 14 and 15 will in actual office practice come into conflict almost daily with Rule 13. Rule 13 means that the friend must be treated with the same cruelty with which the friendless stranger is treated; that the eminent citizen and wealthy advertiser has no more right to privacy for his misdeeds than the resourceless stranger within the gates; that the tortured applicant who comes in person to beg the editor's mercy may not have it unless the paper policy is equally merciful to all. Or, to put it conversely, the stranger is entitled to the same kindliness and mercy as the friend, the poor as the influential.

Such a code as this, setting forth principles rather than practices, can scarcely be "enforced" in American journalism as at present organized. However, it is expected by the State Editorial Association to have some "teeth" and possibly to effect some changes in the profession. In the first place, the public is taken into the confidence of the papers. The School of Journalism, by request, has printed conspicuous wall cards in two colors, two feet by three, in which form the code will be displayed in the various newspaper offices where the public and any complaining members of the public may see it. The State Editorial Association, also, has had stereotype plates made which are being sent to each paper in the state to make practicable the publication of the code in full by all the papers. Many of the papers in the larger cities printed the code without waiting for this assistance.

APPLICATION OF ITS PRINCIPLES

The first section of the code, "Sincerity; Truth" (page 284), disowns all sophistries, and, in effect, pledges the paper that prints the code or displays it in the office to an observance of its principles. It "interprets accuracy not merely as the absence of actual misstatement, but as the presence of whatever is necessary to prevent the reader from making a false deduction." It also accepts the duty of openly acknowledging error. The reluctance of newspapers to retract erroneous statements and opinions in any wholehearted way has an interesting history reaching back to some not ignoble English precedents of a hundred years ago, but under American laws and conditions today, remedy through the court is not adequate, and refusal to make a willing and wholehearted retraction is often only stubborn meanness. This the Oregon editors disown.

CARE; COMPETENCY; THOROUGHNESS

Section II, "Care; Competency; Thoroughness" (page 284), has more in it than appears at first sight. It is, in a way, a mandate from the press to the Oregon School of Journalism to regard journalism "as a learned profession." This is not the way his vocation is regarded by many a reporter today, as anyone familiar with the American press well knows. Little midnight oil is burned in the study of the arts and sciences, or the fundamentals of sociology, economics, politics or religion by many reporters. Unlike the young ambitious lawyer or doctor, the reporter does not usually believe that success in his profession depends upon any intellectual effort aside from performing the tasks of the day; with the result that in many

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instances he does not attain a high degree of competency—or reward, for that matter. What university instruction and guidance in this respect can accomplish, the next twenty years will tell.

MODERATION; CONSERVATISM; PROPORTION

Section IV, "Moderation; Conservatism; Proportion" (page 285), is expressed in general terms, but it is not so moderate or conservative as it looks. Its meaning is clear. It declares against a certain type of newspaper well known especially in the larger cities of the country. It is hard to see how a typical "tabloid illustrated," or a street sale thriller, issuing a new edition every fifteen minutes with the latest item shouting down the more important news of half an hour before, could live under this rule. One Oregon newspaper, with admirable honesty and straightforwardness, entered a "reservation" against those parts of the code which might be understood to militate against efforts at direct leadership and the emotional concentration of public attention upon even minor evils until they are corrected. The case for the more fanatical sorts of journalism is, in fact, arguable if the paper is sound at heart and incorruptible and is actuated by a sound principle; but the Oregon editors have definitely declared for a more philosophical and proportioned presentation of news and opinion. As a matter of fact, Oregon is a state characterized by an almost entire absence of sensational journalism; and it is not greatly the loser by this fact.

PARTISANSHIP AND PROPAGANDA

Section V is devoted to "Partisanship; Propaganda" (page 285). Small countries like England and France, with dozens or scores of papers printed in a centrally located metropolis and equally accessible throughout the country on the day of publication or the next morning, can afford a partisan press or special papers adapted to various social groups or classes. Such an arrangement has certain advantages of its own. But in America geography decrees that two or three papers must serve the entire population of a given area, rich and poor, ignorant and educated, Democrat and Republican, coarse and refined, conservative and radical. The American journal therefore is too much like a public service corporation to make partisanship, in the news at least, permissible. It is the American newspaper that has developed the "non-editorial" method of telling news facts, and which is struggling toward an unpartisan way of selecting news and governing emphasis—a much more difficult matter. It is for this attempt that the Oregon papers have declared themselves. As for propaganda, it is a snake that must somehow or other be scotched, or it will choke out much of the best opportunity in the profession.

PUBLIC SERVICE AND SOCIAL POLICY

Section VI, "Public Service and Social Policy" (page 285), does not deny that the determination of "what the public wants" is and ever will be one of the great and puzzling problems of the journalist, but it does deny that the gratification of the public's whims is the foundation or only principle of journalism or that the newspaper editor is a mere merchant of information and entertainment. The public must have the facts; it must not be fooled or enticed to what the editor regards as right action; it must receive no prettier picture of the world than the facts justify; it is entitled to receive from the newspaper the factual basis on which it may, if it will, form opinions different from those of the editor, but the rules

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of decency and good taste are not abrogated. It is just as well, however, that this rule is not capable of explicit statement; papers ought to continue to differ as to what "social policy" prohibits and as to what complete frankness demands.

ADVERTISING AND CIRCULATION

Section VII, "Advertising and Circulation" (page 286), does not adopt the policy widely advertised by some Eastern publications of guaranteeing every statement made and every article offered in the advertising pages. Such a rule implies vast facilities for investigation. It does promise, however, that all matter will be barred which the publisher believes harmful or intended to deceive.

A recent questionnaire sent out by the School of Journalism revealed that a considerable number of Oregon publishers are already excluding from their advertising pages considerable classes of copy. Some accept no oil or mining promotion schemes except where production is already established; some, nothing speculative; some bar all medicines to be taken internally; some exclude cigarettes and one or two, all forms of tobacco. Many stated that they took no advertising which they believed fraudulent or harmful—the rule since enacted into the code. These facts illustrate some of the difficulties that await the future author of a code which shall be explicit as to practices and which will not, like the Oregon Code, rest content with principles. There are mining and oil prospects which by reason of their location and management are good speculative investments; there are some internal remedies which—while they may work evil by postponing the needed visit to the doctor—are useful and harmless; and many think tobacco is one of the blessings bestowed upon man by a kindly Providence.

But conscience is alive in the newspaper profession; the writer knows many, many newspapers which sacrifice and have sacrificed profits to principle; and the establishment of a code is a step in the already active mobilization of the constructive ethical forces in journalism.

The Practice of the Kansas Code of Ethics for Newspapers

By ALFRED G. HILL

Lawrence, Kansas, sometime reporter on certain Kansas daily papers and on the Public Ledger of Philadelphia

THE "Code of Ethics for Newspapers" was adopted by the Kansas Editorial Association March 8, 1910, thus making it one of the earliest, if not the earliest code of its kind adopted by a state association. The Code was largely the individual work of the late W. E. Miller, a country editor living at St. Marys, Kansas. It represented years of thought and much work on the part of Mr. Miller, whose interest continued until his death two years ago, and who followed closely the gradual advance made in newspaper standards.

An important contribution of the Kansas Code outside of the state has been the stimulating of other state associations and organizations to adopt codes which are beneficial, to say the

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least. In this article, the Kansas Code, which is still presumably the standard for Kansas publications, will be considered by sections in relationship to its effect on Kansas newspapers after twelve years.

As an early code there are necessarily imperfections, and it is significant that in a number of cases present accepted standards have advanced beyond the standards outlined by Mr. Miller in 1910. Miss Ruth Armstrong, a graduate in the University of Kansas Department of Journalism, who is preparing her thesis on "The Ethical Responsibility of the Newspaper," states, however, that the Kansas Code is more comprehensive than many of the codes adopted by other state editorial associations since 1910. The writer is indebted to Miss Armstrong for much information on which comment regarding the Kansas Code is based.

As interesting as the Kansas Code, is the discussion and argument printed by Mr. Miller at the time of the Code's adoption. Mr. Miller saw in the efforts then being made in Congress to restrict postal rights of newspapers, an indication that newspapers were guilty of offenses against public interest. He outlined these offenses under three headings: (1) influencing reports to serve the interest of larger advertisers; (2) influencing reports to serve political ambitions; and (3) offenses against the sensibilities of more enlightened people while influencing the reports to sate the morbid appetite of those less enlightened.

Mr. Miller called attention to the presidential message of George Washington advocating the transmission of newspapers and periodicals through the mails free of postage. Washington held that such publications were public utilities "because they were calculated to preserve the liberty, stimulate the industry, and meliorate the morals of an enlightened and free people."

"The sensational journalism and large advertising interests of today were unknown then," Mr. Miller said. "The former does not meliorate the morals of the people, and the latter does not tend to the preservation of their liberties." Mr. Miller urged that the postal restrictions were the natural result of newspaper policies that tended away from public interest. He advocated self-control of newspapers by the publishers themselves along the right lines to prevent governmental restrictions. The Code was offered as a standard of guidance.

"I do not anticipate that such a code would be practised to the letter," Mr. Miller explained. "In our case we have no power of enforcement and want none.

"We might have a state board of press discipline whose members are selected by this association, and who are empowered by statute to hear complaints and try offenders, but such a board is, like legal or postal interference, subject to very serious objections. We would better obtain the desired results by recommending that our state department of journalism imitate the example of that famous institution, Fordham University, which was the first law school in the land to offer a course in professional ethics, and urge that our University school take advantage of its fine facilities and offer a course in newspaper ethics."

Since that time, newspaper ethics has become a regular subject in the Department of Journalism of the University of Kansas in the course, "Newspaper Problems and Policies."

The Kansas Code is in two general divisions: first, for the publisher; second, for the editor. Under the heading, "For the Publisher," there

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are four general headings to cover advertising, circulation, estimating (every small Kansas newspaper office has its job shop), and news (news under this heading being considered from the publisher's standpoint). The code for the editor is briefer and deals largely with the presentation of the views of the editor. The Code will be given in full with discussion of its effect and actual practice following each general division:

FOR THE PUBLISHER

IN ADVERTISING

Definition. Advertising is news, or views, of a business or professional enterprise which leads directly to its profits or increased business.

News of the industrial or commercial development of an institution which in no way has a specific bearing upon the merits of its products is not advertising.

Beside news which leads to a profit, advertising also includes communications and reports, cards of thanks, etc., over the space of which the editor has no control. Charges for the latter become more in the nature of a penalty to restrict their publication.

Responsibility. The authorship of an advertisement should be so plainly stated in the context or at the end that it could not avoid catching the attention of the reader before he has left the matter.

Unsigned advertisements in the news columns should either be preceded or followed by the word "advertisement" or its abbreviation.

We hold that the publisher in no degree be held responsible for the statement of fact or opinion found in an advertisement.

Freedom of Space. We hold the right of the publisher to become a broker in land, loan, rental and mercantile transactions through his want and advertising columns and condemn any movement of those following such lines to restrict this right of the publisher to the free sale of his space for the purpose of bringing buyer and seller together.

This shall not be construed to warrant the publisher as such in handling the details, terms, etc., of the trade, but merely in safeguarding his freedom in selling his space to bring the buyer and seller together, leaving the bargaining to the principals.

Our advertising is to bring together the buyer and the seller, and we are not concerned whether it is paid for and ordered by the producer, the consumer or a middleman.

Acceding to any other desires on the part of traders is knocking the foundations out from under the advertising business—the freedom of space. We hold that the freedom of space (where the payment is not a question) should only be restricted by the moral decency of the advertising matter.

We hold that the freedom of space denies us the right to sign any contract with a firm which contains any restriction against the wording of the copy which we may receive from any other firm, even to the mentioning of the goods of the first firm by name.

Compensation. We condemn the signing of contracts carrying with them the publication of any amount of free reading matter.

We condemn the acceptance of any exchange articles, trade checks, or courtesies in payment for advertising, holding that all advertising should be paid for in cash.

We condemn the giving of secret rebates upon the established advertising rate as published.

Rates. All advertising rates should be on a unit per thousand basis and all advertisers are entitled to a full knowledge of the circulation, not only of the quantity but also of the distribution. Statements of circulation should show the number of bona fide subscribers, the number of exchanges, the number of complimentaries, and the number sold to newsdealers, and if possible the locality of distribution, in a general way.

Position. Position contracts should

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be charged a fixed percentage above the established rate of the paper, and no contracts should be signed wherein a failure to give the position required results in a greater reduction from the established rate than the position premium is greater than the established rate.

Comparison. We consider it beneath the dignity of a publisher to place in his columns statements which make invidious comparisons between the amount of advertising carried or the circulation of his paper and that of his competitor.

Press Agents and Unpaid Advertising. The specific trade name of an article of commerce, or the name of a merchant, manufacturer or professional man WITH REFERENCE to his wares, products, or labors should not be mentioned in a pure news story.

We condemn as against *moral decency* the publication of any advertisement which will OBVIOUSLY lead to any form of retrogression, such as private medical personals, indecent massage parlor advertisements, private matrimonial advertisements, physician's or hospital's advertisement for the care of private diseases, which carry in them any descriptive or suggestive matter of the same.

Under the "responsibility for advertisements," the Code discusses two important phases: First, there is the matter of unsigned advertisements. The Code declares unqualifiedly that any matter for which payment is made, shall be clearly marked as such.

It is notable that there is no limitation as to distinction in typography for advertisements from news. Mr. Miller in his printed article says: "I have no objection to practically any method's being used by the advertiser to induce the reader to read his advertisement, provided the reader learns before he is through that it is an advertisement." Many Kansas editors believe that there is distinct room for argument on this point. Also, it must be admitted that newspapers in some instances are careless in meeting the present legal requirements that advertisements be plainly marked or distinguished from unpaid matter. On the other hand, this carelessness is becoming less noticeable and there can be no doubt of the attitude of disapproval of the practice of former years of carrying "paid readers" as news matter.

The second phase of responsibilities considered by the Code exonerates the publisher from any degree of responsibility for statements in the advertisements. Since 1910 such publications as *Good Housekeeping*, the *New York Tribune* and others have assumed responsibility for statements in their advertisements, and it has been stated by representatives of these publications that the practice of assuming such responsibility has been good business from a practical standpoint. The natural conclusion is that a distinct step may be taken in advance of the Kansas Code in regard to responsibility. In Kansas, no newspapers, as far as the writer knows, so obligate themselves.

The plank concerning "freedom of space" has more to do with the problems coming before a small-town editor. It is noted that the only limitation which the Code assumes as to freedom of space is that of moral decency in the advertising matter.

"In the case of many questionable speculative propositions there may be objection to this interpretation of the freedom of space," Mr. Miller states. "Upon these I hold that the freedom of space demands that we take the money, print the advertisement, but see that the copy is so worded that the responsibility rests entirely with the promoter. We do not run speculative assurity associations to protect people from their misjudgments," he concludes.

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This statement is open to vigorous attack. It is notable that very few Kansas newspapers publish advertisements for wild-cat oil companies, mining concerns, and the like. Recently a Kansas City newspaper of the lurid type has devoted a section to speculative advertisements of doubtful nature, but the disapproval of a number of Kansas editors of such advertisements has been stated publicly. Kansas was the pioneer in "blue sky" legislation. The State Board passes on the right of promoters to sell stock in the state and the recommendations of this board afford guidance for newspapers in acceptance and rejection of advertisements of speculative nature.

A "touchy" case in regard to compensation for advertising is taken up in condemnation of the giving of secret rebates. In the past decade the small-town newspaper has made great advancement in more businesslike conduct of its business. No longer is the editor who is willing to accept potatoes for subscriptions considered in good standing by his associates. Another effect of the more businesslike methods has been the standardization of rates. The giving of secret rebates (which newspapers condemn so vigorously on the part of railroads) has been lessened. The writer has personal knowledge that this practice is continued to a limited extent by some reputable newspapers, especially where competition is severe and publishers are anxious to make a showing in advertisements.

The condemning of advertisements of doubtful decency is natural, and it is in this phase of advertising that probably the greatest advance has been made since the publishing of the Kansas Code. The so-called aristocracy of Kansas newspaper men, which makes up the most of the Kansas State Editorial Association, has contempt for the newspapers that publish doubtful advertisements and it must be admitted that an important reason for advancement in this line has been legal restriction.

FOR THE PUBLISHER

IN CIRCULATION

Definition. Circulation is the entire list of first-hand readers of a publication and comprises the paid readers, complimentary readers, exchange readers, and advertising readers.

Compensation. Subscriptions should be solicited and received only on a basis of cash consideration, the paper and its payment being the only elements to the transaction.

Newsdealers. The purchase of a quantity of papers should be made outright, allowing for no return of unsold copies.

Gambling. We condemn the practise of securing subscriptions through the sale or gift of chances.

Complimentaries. Complimentary copies should not be sent to doctors, lawyers, ministers, postal clerks, police or court officials for news or mailing privileges.

Since the publication of the Kansas Code, the federal government has been putting into effect restrictions against unlimited complimentaries and delayed payments of subscriptions. The same advance in business methods that has taken place in newspapers of recent years, has cut down the complimentary copy evil, also, and limited investigation by the writer has failed to reveal any newspapers that had officials on its free list in return for special privileges. An exception to this statement must be made in regard to postal clerks.

There is a special importance attached to the statement in the Code that subscriptions should be solicited and received only for cash and that the

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payments for the paper be the only element of the transaction. There are a few Kansas newspapers which still give premiums for payment of subscription. This practice has decreased materially, however, and the old-fashioned newspaper subscription contest is also a rarity in Kansas.

FOR THE PUBLISHER

IN ESTIMATING

Definition. Estimating is the science of computing costs. Its conclusion is the price.

Basis. We do not favor the establishment of a minimum rate card for advertising which would be uniform among publishers, but we do favor a more thorough understanding of the subject of costs and commend to our members the labors of the American Printers Cost Commission of the First International Cost Congress recently held in Chicago. Let us learn our costs and then each establish a rate card based upon our investment and the cost of production, having no consideration for the comparative ability of the advertisers to pay, or the semi-news nature of the advertisement.

Quantity Discount. We consider it unwise to allow discounts greater than 10 per cent from the rate of first insertion for succeeding insertions.

The material advance in the business methods of computing possible costs has been the result of self-interest on the part of publishers; the Code, here, is merely a statement in favor of methods which will allow a fair profit.

FOR THE PUBLISHER

NEWS

Definition. News is the impartial report of the activities of mind, men and matter which do not offend the moral sensibilities of the more enlightened people.

Lies. We condemn against truth:

(1) The publication of fake illustrations of men and events of news interest, however marked their similarity, without an accompanying statement that they are not real pictures of the event or person but only suggestive imitations.

(2) The publication of fake interviews made up of assumed views of an individual, without his consent.

(3) The publication of interviews in quotations unless the exact approved language of the interviewed is used. When an interview is not an exact quotation it should be obvious in the reading that *only* the thought and impression of the interviewer is being reported.

(4) The issuance of fake news dispatches, whether the same have for their purpose the influencing of stock quotations, elections, or the sale of securities or merchandise. Some of the greatest advertising in the world has been stolen through the news columns in the form of dispatches from unscrupulous press agents. Millions have been made on the rise and fall of stock quotations caused by newspaper lies, sent out by designing reporters.

Injustice. We condemn against justice:

(1) The practice of reporters making detectives and spies of themselves in their endeavors to investigate the guilt or innocence of those under suspicion.

Reporters should not enter the domain of law in the apprehension of criminals. They should not become a detective or sweating agency for the purpose of furnishing excitement to the readers.

No suspect should have his hope of a just liberty foiled through the great prejudice which the public has formed against him because of the press verdict slyly couched in the news report, even before his arrest.

We should not even by insinuation interpret of facts our conclusions, unless by signature we become personally responsible for them. Exposition, explanation, and interpretation should be left to the field of the expert or specialist with a full con-

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sciousness of his personal responsibility.

(2) The publication of the rumors and common gossips or the assumptions of a reporter relative to a suspect pending his arrest or the final culmination of his trial. A staff of reporters is not a detective agency, and the right of a suspect to a fair and impartial trial is often confounded by a reporter's practise of printing every ill-founded rumor of which he gets wind.

Indecencies. Classification: for the sake of clearness and order, crimes with which we will be concerned may be divided into those which offend against the PUBLIC TRUST (such as bribery, defalcation, or embezzlement by a public official); those which offend against PRIVATE INSTITUTIONS OR EMPLOYERS (which are also often defalcations and betrayals of confidence); and crimes which offend against PRIVATE MORALITY most often centering around the family relation.

(1) In dealing with the suspicions against PUBLIC OFFICIALS or trustees we urge that ONLY FACTS put in their TRUE RELATION and records be used in the news reports.

(2) In dealing with the suspicions against agents of private institutions facts alone put in their true relation should again be used.

(3) In dealing with the offenses against private morality we should refuse to print any record of the matter, however true, until the warrant has been filed or the arrest made, and even then our report should contain only an epitome of the charges by the plaintiff and the answers by the defendant, preferably secured from their respective attorneys.

No society gossips or scandals, however true, should ever be published concerning such cases.

However prominent the principles, offenses against private morality should never receive *first page position* and their details should be eliminated as much as possible.

Certain crimes against private morality which are revolting to our finer sensibilities should be ignored entirely; however in the event of their having become public with harmful exaggeration we may make an elementary statement, couched in the least suggestive language.

In no case should the reckless daring of the suspect be lionized.

(4) Except when the suspect has escaped his picture should never be printed.

Naturally the news element has the greatest public interest.

In regard to the condemning of untruthful statements, there has been an advance since the adoption of the Code. There is now practically no use of fake illustrations and fake interviews. However, interviews are still published in Kansas, just as in other states, which violate the requirement in the Code that only exact quotations be used in quotation marks.

In the matter of injustice in the handling of news, the Code has a comprehensive statement. I believe that the small-town newspapers have less of a tendency toward injustice in forming public opinion regarding a criminal than a large city newspaper. I believe it fair to state that the effect of the Code has been to call attention of editors to their responsibility in the matter of justice in a way that has brought favorable results. The condemning of the practice of reporters' making themselves detectives in connection with criminal cases, is sweeping. There are reporters who will justify themselves in limited activities in aiding the police in crime detection. The Code discusses the matter from the publisher's viewpoint, which calls attention to an interesting comment made by Governor Allen of Kansas, who is proprietor of the *Wichita Beacon*. In a recent letter to Miss Armstrong, he states:

It always remains a problem to secure from one hundred individuals united in

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the preparation of a newspaper, the sort of reaction that makes the paper an expression of all you would have it be.

The human element in a newspaper frequently prevents the living-up to the Code, even though the publisher so wishes.

There are members of the family of reputable newspapers which do not meet all of the requirements of the Code regarding so-called indecency. In the publication of uncertain crime material it is doubtful whether much progress has been made since the Kansas Code was written. In the opinion of the writer the rather upset conditions following the War have probably lowered standards of newspapers. Two specific suggestions of the Kansas Code are interesting: One is that the picture of a suspect should not be published except to aid in apprehension; the other, that doubtful crime material be kept off "page one position" when published.

FOR THE EDITOR

VIEWS

Definition. Views are the impressions, beliefs, or opinions which are published in a paper, whether from the editorial staffs of the same, outside contributors, or secured interviews.

A Distinction. We hold that whenever a publication confines the bulk of its views to any particular line of thought, class of views, or side of a mooted question, it beeomes to that extent a class publication, and inasmuch ceases to be a newspaper.

An Explanation. You will note by our definition of news that it is the impartial portrayal of the decent activities of mind, men and matter. This definition applied to class publications would be changed by replacing the word IMPARTIAL with the word PARTIAL.

In this section we will deal with IMPARTIALITY in the presentation of the decent activities of the mind of the community—with the views or editorial policy of a paper.

Responsibility. Whereas a view or conclusion is the product of some mind, or minds, and whereas the value and significance of a view is dependent upon the known merit of its author or authors, the reader is entitled, and has the right to know the personal identity of the author, whether by the signature in a communication, the statement of the reporter in an interview, or the caption in a special article and *the paper as such* should in no wise become an advocate.

Influence (editorial). We should avoid permitting large institutions or persons to own stock in, or make loans to our publishing houses if we have reasonable grounds to believe that their interests would be seriously affected by any other than a true presentation of all news and a free willingness to present every possible point of view under signature or interview.

Influence (reportorial). No reporter should be retained who accepts any courtesies, unusual favors, opportunities for self-gain, or side employment from any factors whose interests would be affected by the manner in which his reports are made.

Deception. We should not allow the PRESUMED knowledge on the part of the interviewed that we are newspaper men to permit us to quote them without their explicit permission, but where such knowledge is certain we insist upon our right to print the views unless directly forbidden.

Faith with Interviewed. An interview or statement should not be displayed previous to its publication without the permission of the author.

Bounds of Publicity. A man's name and portrait are his private property and the point where they cease to be private and become public should be defined for our association.

The Kansas Code takes up a vital problem for every editor. As a general

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rule the Kansas editor has made favorable progress along the lines outlined by the Code. The whole matter of editorial views simmers down to the personal responsibility of the editor in charge to be the spokesman of public interest. The requirement of the Code that editors keep free from financial influence is logical. Especially is this true of a few of the Kansas newspaper publishers and editors, as Mr. Miller was undoubtedly aware. Scores of Kansas newspapers have been financed by banks, sometimes to the embarrassment of the editors, and some cities have been fortunate enough to see two newspapers as spokesmen for two opposing bank factions. It is the natural desire of every editor to become free from such influence and this freedom is gradually being achieved. Likewise, the better class of bankers are realizing more and more that their financial interest in the newspaper does not carry with it the right of editorial influence unless the banker himself is the editor.

The statement of the Code that a man's name and portrait are his private property must meet limitations from the newspaper man's standpoint. The Kansas State Editorial Association has not taken upon itself to define the point at which the rights of the private individual to prevent publication of facts concerning him, extends. Every individual has the right of the protection of the law of libel against injustice by a newspaper, but it is a commentary either on the high standard of Kansas newspapers or the inadequacy of the law that libel suits are very rarely successful.

Individual planks of the Code from the standpoint of the editor are undoubtedly violated; for example, reporters, to the personal knowledge of the writer, are not immune from special courtesies given by interested persons with selfish interests. Part of this is the fault of the publisher who winks at such practices or pays a low wage.

It is difficult to judge the influence of the Kansas Code of Ethics except in a very general way. It has had its influence in the profession; it has turned the thoughts of its practitioners in the direction of the ethics to be adopted in the conducting of their business. On the other hand, the Code, as a code, is not studied with any frequency by individual editors and publishers. Miss Armstrong, in conducting her investigation, received letters from scores of editors over the country in answer to her queries. Six of the most prominent leaders in the Kansas editorial profession discussed the ethical phase of their business without mentioning specifically the code which their editorial association had adopted. However, the answers stating the individual opinions of the editors, lived up to, in every respect, the requirements specified by the Code.

The statement by William Allen White, publisher of the *Emporia Gazette*, to Miss Armstrong is particularly illuminating:

> Generally speaking, I do not print any advertising in the *Gazette* which I could not personally guarantee. That means that I won't use any patent medicine, travelling doctors, unregistered oil stock, or any unregistered stock, travelling fire sales, slaughter sales, and any sort of travelling merchandisers, and I refuse to print any advertisement to lure girls to the city for employment. We also refuse matrimonial agencies, and all that sort of thing. In the news end we have just one rule; the subscriber runs the paper and the advertisers have no right the subscriber is bound to respect, and in that way the subscriptions are kept up and the advertiser, in the long run, profits.

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The Ethics of Industrial Publishing

By HENRY H. NORRIS
Managing Editor, Electric Railway Journal

WITHIN twenty-five years past the publishing of that type of class periodicals known as industrial papers has grown to be a business of large proportions. While exact statistics are not available, the volume of annual business is at least $50,000,000 and more than 1,400 publications are issued. These are mainly of two varieties: trade or merchandising papers and technical papers, but there are others of a more general character while still lying within the industrial field.

PECULIAR NATURE OF INDUSTRIAL PUBLISHING

The publishing of business papers differs in many particulars from newspaper publishing. While their essential functions of gathering, disseminating and interpreting information are the same, the relation between the publishers on the one hand, and their subscribers and advertisers on the other, is not the same. The industrial publication reaches a class of readers who have special trade or technical interests, and it serves them along the lines of these interests. The newspapers are addressed to readers of many kinds and with a wide range of interests. Every worthwhile industrial publication, therefore, occupies a position as teacher and leader to a group of specialists, which is small in number compared with the subscription lists of the newspapers and general magazines of similar standing.

Because the clientele of the business paper is small, the range being roughly two thousand to twenty times that number, the publisher and his staff can maintain intimate contact with their circle of readers. In fact, such a relation must be maintained if the efforts of their publication are to succeed. He and his associates are active and occupy leading positions in the industrial organizations in the field of their paper, and they spend much of their time in visiting the important centers of activity in their specific industry. As a result they are personally acquainted with large numbers of their subscribers, including practically all of those who are leaders of thought and action among them.

The relation of the business paper publisher to his advertisers is also an intimate one. The publisher is in a position to sense the marketing and even the production problems of the advertisers, due to the necessarily wide scope of his vision of the particular industry which they are trying to serve with their products. He thus can advise as to the form and matter of advertising copy, as well as the general features of advertising campaigns and detail plans.

The intimate relation which exists between the business paper publisher and his clientele has rendered desirable, and in fact necessary, a special code of ethics to cover his case. Not only is this true for the reasons already explained, but also, and particularly, because there is a close relation between the editorial and advertising columns of his paper. The editorial and advertising departments are fundamentally addressed to the same people, for the same purpose. This is to enable the subscribers to do their work better and more economically. Thus, when a highway paper explains editorially how to build a satisfactory roadway,

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its advertising columns carry the message of the manufacturers and dealers who are prepared to supply the apparatus necessary for the building of a highway, of the engineers who are expert in highway building, of book publishers who issue treatises on highway construction, of contractors and communities who require men to do the higher grades of work in this field, and many others who need to be brought into touch with possible customers.

ESSENTIAL INDEPENDENCE OF EDITORIAL AND ADVERTISING COLUMNS

This parallelism between the editorial and advertising functions of the business paper involves coöperation between the corresponding departments of the paper, but not collusion for the purpose of giving an advertising tinge to the editorial columns. A danger with respect to the latter does exist and it is a serious one. The existence of this danger has, in fact, been the primary cause of the development of a special code of ethics for business publishers. And a further reason for a code of ethics is that advertisers and subscribers may know that the publishers adhere to high standards which, among other things, prevent improper use being made of the editorial columns.

Of course, the actual editorial standards of reputable business papers have long prohibited the insertion of disguised advertising material such as "puffs," "write-ups" and the like. The terms connote to the editorial mind a group of highly undesirable types of article. However, all editors have not applied the principle to an equal degree and a few papers have not appreciated the extent to which their best success depends upon complete independence of the editorial and advertising columns. The papers which have adhered to higher standards have been in the majority for many years, but they have not attempted to formulate a code of principles until within a few years past because they have had no way of functioning as an industry. The fact is that industrial publishing has recognized itself as an industry for less than two decades. Before this, although individual papers were provided to meet the needs of different branches of industry, they, like the branches of industry with which they were identified, thought of themselves as isolated units. Gradually, however, industry began to find itself as a national affair and, under the same centripetal forces which have been drawing the several branches of industry together, the related business papers have been drawn together in national organizations. These organizations have been formed to assist in the solution of common problems, to enable the publishers to stand together where their rights and privileges were involved, and to permit the codification of guiding principles which will tend to elevate the standards of service of industrial publications.

TWO POINTS OF VIEW IN BUSINESS PUBLISHING

One of the salient problems connected with self-improvement in this business has been to determine the point of view from which industrial papers should be published. One might as well frankly face the fact that there were, and are still, two radically different points of view. From one, industrial publishing is considered primarily as a business, the service feature being secondary or incidental. The other point of view is that in which the principal stress is laid on service to the industry in all its various phases, the advertising being included as part of the service. In this case, the profits of the business

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are considered somewhat of a by-product, the conviction of the publisher being, however, that good service, intelligently placed from the business standpoint, will be sure to receive financial reward. Essentially, these two points of view in business publishing are the same as those which are met in the individual citizen in everyday life. After all, what the publisher and the individual have to sell is fundamentally service.

There is reason, of course, behind both of these points of view, and there is not so much difference between them as might appear at first sight. The difference while small is, however, vital. It is one of emphasis. Thus the attitude of one publisher says, "the profits first," even if his words are different. That of the other says, "the reader first," whether he subscribes to a creed which formulates his attitude or not. The latter is the modern, progressive industrial publisher. He is the one who has been forward in the movement to raise the standards of the business.

From what has been said, the reasons underlying the formulation of "Standards of Practice for Business Papers" [1] may be inferred. As publishers got together in their local and national associations to discuss their problems, they felt the need for some yardstick by which to measure their own performance along ethical lines. Their idea was not to produce a police code which would permit the bringing of transgressors before the bar of industrial publishing justice, but rather to draw an outline of what industrial publishing is at its best. The "code" has been accepted in the spirit in which it was drawn and, in the opinion of leading publishers in this field, is accomplishing its purpose. A glance through any good industrial paper today will disclose little material in the editorial columns that bears the mark of disguised advertising, and little in the advertising pages that is extravagant in claim or derogatory of competitors.

[1] *See* Appendix, page 296.

THE ASSOCIATED BUSINESS PAPERS, INCORPORATED

So much by way of a background for the "Standards of Practice." Let us now examine briefly the organization which is promulgating them, the Associated Business Papers, Incorporated. This is the outgrowth of a movement of the industrial publishers to get together nationally, which in 1906 took the form of the Federation of Trade Press Associations in the United States. As the name of that organization indicates, there were already a number of local publishers' associations extant. These had been formed from time to time to bring together the men engaged in this branch of the publishing business for the purpose of exchanging views and experience, at the same time enabling them to take a united stand where such action would be helpful to the industries which they represented and to their own individual industry as well.

At its annual convention in 1913 the Federation adopted a "Declaration of Trade Press Principles," [2] ten in number, which set forth frankly just what business publishing was trying to do and what the publishers believed to be the essentials of good service. Good service, the "Principles" stated to be the basis on which every trade paper should build its business. Such was a beginning which led naturally to the "Standards of Practice" which were adopted by the Federation in May, 1914, and were taken over by its successor, the Associated Business Papers, Incorporated. This, the present association, was formed in

[2] Reprinted on page 295.

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1916, because the Federation proved to be too unwieldy and loosely articulated an organization for the purpose of securing results in reasonable time.

The new association, however, built upon the foundation laid by its predecessor, and adopted as one of its requirements of membership a policy of strict adherence to the "Standards of Practice." The association is not yet all-inclusive by any means, but this does not necessarily imply that papers not included in its membership are not willing to subscribe to the "Standards of Practice." Most of them, indeed, could easily satisfy the association on this score. It is significant, however, that a prominent requirement for membership in the "A. B. P." is acceptance of the code. This fact gives to the code the weight of authority and also establishes the reputation of the Associated Business Papers, Incorporated, as an organization which maintains high standards.

In this connection it is interesting to note that the British Association of Trade and Technical Journals also has adopted "Standards of Practice" [3] which are fundamentally the same in spirit as those of the American association, although differing in phraseology. This action of the British publishers and the wording of their "Standards" indicate that the problems of industrial publishing are much the same on both sides of the Atlantic.

THE "STANDARDS OF PRACTICE"

The "Standards of Practice for Business Papers" of the American association are ten in number and characterized by their brevity and practicality. They do not go into the philosophy of their subject but are confined to telling what to do under all circumstances involving ethical considerations.

[3] Reprinted in full on page 297.

The "Standards" begin with the statement that the business paper is to be published primarily in the interests of the subscriber. This simple principle will serve as a basis of settlement of many of the trying problems which arise in the business. While the subscriber pays probably not more than 10 per cent of the cost of issuing the paper, the whole paper is addressed to him. The advertiser is willing to furnish the other nine-tenths of the cost for the privilege of reaching him. This money is well spent, for the industrial paper reaches a definite class of readers who are interested in the product of the advertiser. The circulation of the paper is selective, in that the paper is subscribed for, and read by people who are looking for specialized information. Thus, while in the editorial columns there is nothing which savors of advertising, the editorials and articles are directing the thought of the subscribers along lines which will make them interested readers of advertising also, if they need apparatus or service. In this way a paper, while serving the reader first, also serves the advertiser. And, obviously, it owes service of the proper kind to the advertiser who is paying most of the bills.

The second of the "Standards" calls for truth and honesty in all departments. This may seem trite, but the responsibility of a business paper for the character of the statements made in its columns and in its name by its representatives, is so great that public commitment to this principle is desirable as an acknowledgment of this responsibility.

A logical sequel to this need for truth is that for a distinct line of demarcation between facts and opinion in the paper. This need is recognized in the third "Standard," which is, of course, the rule in journalism

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generally. The selection of a writer, outside the staff or within it, to prepare articles on definite subjects involving the expression of opinion is naturally guided by the feeling of the editor that such expression is needed. But opinion must be expressed in the author's name, or in the department of the paper clearly designated for that purpose. This practice safeguards the paper as well as the subscriber.

"PUFFS" AND "WRITE-UPS"

At one time the publication of "puffs" and "write-ups" in business papers was common, these terms being used to designate articles which were inserted at the instigation of the interests supposed to be benefited by the insertion. Advertising space was sometimes sold with the understanding that the advertiser and his wares would be mentioned in the editorial columns of the paper. The evils of the practice were early recognized and papers of the better class refused to print such material, pointing out that as the interests of the subscriber were the ruling consideration, no articles could be accepted which did not contain news of interest to him. The growing custom of refusing to print "write-ups" was embodied in the fourth rule of the "Standards of Practice." This rule does not imply that descriptions of manufactured devices and names of manufacturers are barred from the editorial columns. So to do would lessen the value of the paper to the reader, for it is as important to let him know that new and practical devices and services are available, as it is to furnish him with the general principles which should guide him. To be sure the person who is prepared to furnish the device or service is also a beneficiary of such editorial mention, but he is entitled to be so, provided that his benefit is a by-product and not the purpose of the publication. Under these circumstances an article of the kind mentioned should not be stigmatized as a "write-up." It stands on its literary and technical or trade merits in comparison with the other articles in the paper.

The fifth of the "Standards" relates to the contents of the advertising columns, which must, in their way, conform to certain definite requirements, although, of course, the publisher cannot exert the control in detail here that he can in the editorial section of the paper. However, when an advertiser signs a contract for advertising service he does so with the understanding that the advertisements are to be consistent with the interests of the reader and the rights of other advertisers. While the publisher cannot guarantee the reader against loss through following the suggestions contained in an advertisement, he does assume a degree of responsibility. The reputation of the paper is to some extent behind every advertisement printed. With relation to other advertisements in the same or related lines, each piece of copy must stand on its own feet and not try to magnify the merits of what it describes at the expense of competitors.

The list of "Standards" begins with those relating to the interests of the subscriber and the need for truth and honesty in general. In the sixth "Standard" these begin to be more specific, in that subscriptions and advertising are specified to be solicited solely on the merit of the publication. Such a rule implies a tendency the other way, namely to use influences other than the compelling force of data to "get the name on the dotted line" of the contract. The best papers, nowadays, rely upon close study of the business possibilities in

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their fields to furnish facts upon which advertising can be intelligently placed. They further supply accurate circulation statistics, classified in accordance with the needs of individual advertisers, so that the latter can visualize their prospective audiences. The necessity for doing this is epitomized in the seventh rule of the "Standards."

The remaining three "Standards" have to do with the large questions of competition and coöperation. They are evidence of the consciousness on the part of the publisher that he does not live to himself, and his subscribers and advertisers alone; that he is a part of industry and of society. They set for him a high standard in stating that he is "to determine what is the highest and largest function of the field which he serves, and then to strive in every legitimate way to promote that function."

THE BUSINESS EDITORS' CODE

All of the foregoing relates to the code of ethics of the publisher, who of course determines all of the policies of the paper, both editorial and commercial. The editors of business papers, in addition, are finding it desirable to prepare codes of their own. This movement is quite recent, dating back only to last summer when the Editorial Conference of the New York Business Publishers' Association adopted such a code, with the title "Standards of Editorial Practice." [4] This is an elaboration of the editorial parts of the publishers' code, and makes more specific certain of its features which are only suggested therein.

This editors' code contains only seven "Standards" of which the first four are substantially like those of the publishers' code. The two following relate to the taking of a position of editorial leadership in the industry served, with a view to bringing it to higher levels of achievement, and to the support in the paper of such worthy measures of public interest as their importance justifies. These principles are in line with the strong convictions of leading editors that their papers must be positive forces in industry and not merely recorders of what has taken place. They are an expression of the realization that the occupancy of a vantage point from which the industrial developments can be viewed in perspective, places on the shoulders of the editors a weight of responsibility for telling their readers what they see. The fact that they reach large numbers of readers who place implicit confidence in what they say gives these editors an influence which they should use in the correction of wrong tendencies and the development of correct ones.

In these "Standards" of the editorial code there is the implication that a paper which is to succeed in this field must be one which takes the initiative, and it is a fact that some of the good things that have been done in recent years in industry can be credited in large part to the efforts of the industrial press editors.

The last "Standard" in the New York editors' code has to do with the editorial interrelations of business papers. It simply illustrates the principle of the square deal as applied to this department, by insisting that borrowed articles shall be credited to the original source and that unfair competition shall be avoided.

The brevity and simplicity of this New York code are in marked contrast to the excellent but elaborate code adopted a few weeks ago by the Oregon State Editorial Association,[5] which is said to have hit what is probably the highest note that has been sounded in American journalism.

[4] Reprinted in full on page 296.

[5] Reprinted in full, page 283.

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This code is evidence that newspapermen are striving along the same general directions of ethical progress as the industrial paper editors. The Oregon Code covers the following characteristics of good journalism: sincerity, truth, care, competency, thoroughness, justice, mercy, kindliness, moderation, conservatism, proportion, public service and social policy. The words listed epitomize the code, which has within it the whole philosophy of the profession, but which needs to be accompanied by a simplified version that can be read quickly and readily committed to memory.

ENFORCEMENT OF CODES FOR INDUSTRIAL PUBLISHING

Before closing, a word regarding the enforcement of the codes of ethics in industrial publishing seems needed to round out the subject. These codes are not police codes, as was pointed out earlier. However, as acceptance of them is a condition of membership in associations of industrial publishers, some way of rendering them effective in accomplishing their purpose is necessary.

The Associated Business Papers, Incorporated, has a Committee on Trade Practices, which receives and acts upon complaints of code violations. The causes of these complaints, however, can usually be removed by means of informal conferences under the auspices of the association's officers. The association also has a Committee on Standardization, which is endeavoring to outline practices in accordance with the code where questions arise affecting groups of papers. Further, the publications of the members are examined from time to time by a Committee of Editors, to detect violations of the code. The carrying out of all of this work is, of course, simplified by the watchfulness of competing papers with regard to each other's practices.

But, undoubtedly, the strongest influence in causing the business papers to adhere to the code, aside from their inherent desire to do so, is that their membership in the association publicly commits them to such adherence. When a paper is accepted for membership, it prints a full-page statement to this effect and includes the "Standards of Practice," so that there may be no doubt as to what the paper has undertaken to do. Moreover, to be admitted at all, a paper must already have established a reputation for fair dealing.

The New York Business Publishers' Association also has a committee to consider complaints of violation of their editorial code. This committee at present is not taking the initiative in the matter but stands ready to exert its influence to remedy any conditions which seem to justify such complaints.

CONCLUSION

The fact that the business paper publishers and editors, as well as the newspaper publishers and editors, are codifying the ethics of their business and profession indicates that this business and this profession have reached a state of development where there is a wealth of experience to be conserved and given tangibility. Only thus are creeds formulated, and a code of ethics is essentially a creed.

Coming back to the "Standards of Practice" of the Associated Business Papers, Incorporated, it may be well to point out that these serve several practical ends. They enable the publisher of the weak paper to determine wherein the weakness lies and to eliminate it, if this is possible. They stimulate the publisher of the strong paper to analyze his practices in order to detect the faults which prevent it from being even stronger. They safeguard all publishers against demands for

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special privileges in their papers and enable them to explain to the subscriber and the advertiser who do not understand the fundamentals of industrial publishing just why their requests cannot be granted. In addition, they have an educational mission to the young people coming up in the business, who need to know why some practices are followed and others are frowned upon in the publishing houses with which they are connected.

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Ethics of Accountancy

By Edward P. Moxey, Jr., Ph.D., C.P.A.
Professor of Accounting, University of Pennsylvania

THE subject of ethics for the accountant is one which has engaged the attention of the members of that profession for quite a number of years. In fact, the subject was one of those presented before the Congress of Accountants, meeting at St. Louis in September, 1904. Prior to that time, however, definite rules of professional conduct had been formulated by the accounting societies of England for their members. In this connection it is interesting to note that in the latter part of 1905 a bill was introduced into Parliament by the Government of Tasmania for the regulation of the profession of accountancy in that colony. This bill made mention specifically of certain actions on the part of accountants which were to be regarded as unprofessional, and the practice of which should render them liable to fine, suspension or expulsion.

At the Convention of the American Association of Public Accountants, held at St. Paul, Minnesota, in October, 1907, Mr. J. E. Sterrett, C.P.A., presented a paper on "Professional Ethics" which is the standard treatise on that subject today. This paper was characterized at that time by Mr. Robert H. Montgomery, C.P.A., as one "which bids fair to become a classic," and this prophecy has indeed been amply fulfilled. Mr. Sterrett called attention to the fact that the older professions of law and medicine had even at that time (1907) made considerable progress in the development of systems of professional ethics, and called attention also to the work being accomplished along that line by the American Institute of Electrical Engineers. In measuring the distinction between the accountant as a member of one of the newer professions, as contrasted with the lawyer or physician, Mr. Sterrett stated:

> A lawyer's real opinion of another lawyer, or that of one physician concerning another, is usually a much more accurate judgment of the man's character and ability than is indicated by the reputation which he bears in the community at large. It may be that the opinion of the public and that of those who know the man from the inside, as it were, will coincide. This is likely to be the case with men of good ability and fine character, but the sham and the trickster are likely to be weighed and labeled by their professional brethren long before their real character is discovered by outsiders.
>
> Under ordinary circumstances regard for the good name of his profession seals the lips of the professional man about matters concerning others in his own profession. The physician considers it quite unethical to pass harsh judgment upon his brother physician, except under the most urgent conditions. As accountants endeavoring to build up professional ideals, we should feel that the good name of our profession requires us to avoid all needless reference to the weaknesses or imperfections of other accountants.

While since that time there have been more or less serious infringements of the rules of ethics as laid down for the guidance of accountants, yet these have been dealt with fairly and impartially by committees on professional conduct of the American Association of Public Accountants and of its successor, the American Institute of Accountants. The work of these committees has always tended to-

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wards the improvement and development of the profession, to the end that there shall be a recognition on the part of its practitioners as well as on the part of the general public, that all who are its members not only are those of high professional attainment, but those in whom the moral ideal exists in more than name only.

Mr. John Alexander Cooper, C.P.A., also presented, at this same convention, an excellent paper on the same subject, in which he divided his remarks under the following headings:

First—the elemental reasons that justify the claim that accountancy is a profession and all that the word implies.

Second—the aims and ultimate goal for those engaged in the practice of accountancy.

Third—a statement of a few classified and tersely expressed rules, that may form a proper basis for the guidance of accountants in practice.

In defining a profession, Mr. Cooper called attention to the dictionary definition of the term: "The calling or occupation which one professes to understand or follow; a vocation in which a professed knowledge of some department of science or learning is used by its practical application to the affairs of others, either in advising, guiding or teaching them, or in serving their interests or welfare in the practice of an art founded on it": or, to give the same thought more concisely, "Professed attainments in special knowledge, as distinguished from mere skill." He sees the services performed by the accountant as falling within the scope of the above definitions, and concludes that those who engage in this practice should "promulgate and maintain at all times, and that inflexibly, those rules of conduct which are known to all professional men of lofty instincts as the keystone that upholds the arch of public confidence." He further continues:

There is no profession, not excepting that of the ministry or of the law, in which it is more imperative that the practitioner be governed by the highest code of morality, than that of public accounting. Great as may be the influence which our profession can and does exercise upon business affairs, it is only by strict observance of ethical rules and right conduct that we can hope to pay the debt we all owe to such profession by uplifting and maintaining the highest standard, thereby bequeathing to our successors a calling placed upon a higher plane than when we first embraced it. It rests largely with this generation of the guild, who can, many of them, recall the inception of public auditing and accounting as it is now recognized, to lay the foundation of a noble profession that may justly be called the right hand of the law, or on the other hand, so bear themselves that this proud opportunity will be lost and our term of stewardship wasted.

The rules of conduct as he summarizes them are expressed as follows under the several headings indicated:

Service

1. To certify to statements, exhibits, schedules or other form of accountancy work, the auditing or preparation of which was not carried on entirely under the supervision of himself, a member of his firm, or one of the staff, is wrong.

2. The use of a practitioner's name in professional work by others than partners or employes is wrong in that it implies deception.

3. To perform accountancy work payment for which is by arrangement upon the contingency of the result of litigation or other form of adjustment is unprofessional.

4. The payment of a commission, brokerage or other form of inducement to the laity from professional fees is wrong.

5. The acceptance of any part of the fees of a lawyer or any commercial brokerage, bonus or commission as an

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incident arising out of a practitioner's service is wrong.

6. Active interest in a commercial enterprise while practicing as a public accountant is to be avoided as incompatible with strict ethical principle.

7. The practitioner should, wherever possible, avoid acting as a trustee of special funds or pools as an incident of his calling.

8. A practitioner should avoid serving as a director in corporations in which he is professionally employed.

Clients

1. Upon engagement a practitioner is in duty bound to tell his client of all foreknowledge he may have had touching the matter under consideration.

2. Personal responsibility is a fundamental rule of the profession. A practitioner cannot screen himself from the specific acts or laches of his employes; the responsibilities are his and those of his firm.

3. Information acquired in the course of service is privileged and inviolable. Abuse thereof to the detriment of a former client renders a member subject to the severest discipline.

4. Efforts that tend to invite or encourage legal contest, or foster further employment by neglect, manipulation or unfinished service, should be severely dealt with; it is, in fact, barratry.

5. To recommend or advise clients to a measure or course of procedure that may even indirectly give the practitioner a personal advantage must be considered as flagrant professional infidelity and misconduct. It is "maintenance," and is punishable as such at common law.

Inter-Professional

1. Depreciation of opponents in contested matters is unprofessional and ethically wrong.

2. Acceptance of an appointment from which a colleague has withdrawn from conscientious motives, without previously making direct inquiry of such colleague as to the conditions, is professional discourtesy.

3. Canvassing the clients of a colleague for business is unprofessional.

4. To recognize or affiliate with a society that in its charter title assumes the words "Certified Public Accountant," without warrant of law as to its membership, is wrong, and gives countenance to an implied fraud.

Publicity

1. No professional accountant should advertise or display his talents as a merchant does his wares.

2. Professional cards should show in plain inconspicuous type the name, occupation, and office address. No strained effect is consistent or dignified.

3. The same form of card may be used in publications of a recognized standard, such as technical magazines, law periodicals, etc.

4. It is not good professional form to solicit business through trade journals, flashy publications, programs, or the daily press, especially under a pseudonym or publisher's index mark.

5. The use of the public press in discussions or essays on matters of technical or general interest is legitimate.

6. The use of initials or other insignia as an affix to a practitioner's name in his business advertisements other than such as is recognized by statutory enactment in the United States or is authoritatively recognized in other countries is unprofessional.

Corporations

1. No member should conceal his personality under a corporate name, either actual or fictitious.

2. The skill and knowledge of the

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profession is individual, and cannot be transferred to a corporation, the accruing goodwill is otherwise lost.

3. Success in any professional career is a matter of personality.

4. A corporation *per se* cannot make an audit which in the full intent of the service is a judicial function.

5. A corporation is without honor, which is the keystone of the profession.

6. Directors cannot direct in a profession of which they are not members. It is a prostitution of the financial standing of the directors and stockholders, leading to unfair competition and prejudiced decisions.

7. The ultimate profit to the lay stockholder or director, whether expressed tangibly or otherwise, is an illegitimate gain or advantage which the profession cannot countenance.

8. In the case of legal liability as the result of negligence or criminal perversion of logical facts the ultimate responsibility rests with the practitioner, notwithstanding the financial support and control of outsiders.

9. Assurance of secrecy in affairs of clients of such corporations cannot be taken seriously.

10. The profession needs no control or regulation from the laity; it is not an industry.

The work of the Convention of 1907, in which the subject of professional ethics was crystallized, is set forth in Articles VII and VIII of the by-laws of the Association which were amended to read as follows:

ARTICLE VII

SUSPENSION AND EXPULSION

Section 1. A state or district society, or any member-at-large failing to pay the annual dues, or any subscription, assessment, or other sum owing by them to the association, within five months after such debt has become due shall automatically cease to be a member of this association.

Sec. 2. A state or district society renders itself liable to be expelled from the association or to be suspended for a term not exceeding two years by resolution of the board of trustees sitting as a trial board, if, after election to membership, it (a) lowers its standards of admission to membership; (b) fails to maintain its organization; or (c) refuses or neglects to give effect to any decision of this association, of the board of trustees or of the committee on arbitration.

Sec. 3. A member renders himself liable to be expelled from the association or to be suspended for a term not exceeding two years by resolution of the board of trustees sitting as a trial board, if (a) he infringes any part of the rules of conduct of the association; (b) is convicted of felony or misdemeanor; (c) is finally declared by a court of competent jurisdiction to have committed any fraud, (d) is held by the board of trustees on the written complaint of any person aggrieved, whether a member or not, to have been guilty of any act or default discreditable to the profession, or (e) is declared by any competent court or commission to be insane or otherwise incompetent.

ARTICLE VIII

TRIAL BOARD

Section 1. For the purpose of adjudicating complaints or charges against members of the association as provided in Article VII the board of trustees shall convene as a trial board.

Sec. 2. Due notice shall be mailed to the parties to the cause by the secretary at least thirty days prior to the proposed session.

Sec. 3. A three-fourths vote of those trustees present shall be necessary to a decision.

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Sec. 4. The Board of Trustees (sitting as a trial board) may in the exercise of its discretion recall, rescind, or modify any resolution for expulsion or suspension at a meeting similarly called and convened by a like majority vote as required in Section 3 of this article, provided that not less than three-fourths of the members constituting such board shall have been of the board that issued the decree then being reconsidered

Sec. 5. Written notice of any resolution for expulsion or suspension shall forthwith be sent to the member affected thereby and to the secretary or secretaries of the state or district society or societies with which such member is affiliated or in which state he has his domicile or place of business.

These articles continued until the year 1916 substantially without change with the addition only of Section 6, which reads:

Sec. 6. No member shall take part in any effort to secure the enactment, alteration or amendment of any state or federal law affecting the profession without giving immediate notice thereof to the secretary of this association, who in turn shall at once advise the secretary of the state or district society concerned.

THE PRESENT CODE OF ETHICS FOR ACCOUNTANTS

In 1916 the American Association of Public Accountants was reorganized under the present title of the American Institute of Accountants. The Institute while not incorporating a code of ethics or rules of conduct in its constitution and by-laws, nevertheless formally adopted a set of rules of professional conduct, which in its present form is as follows:

(1) A firm or partnership, all the individual members of which are members of the Institute (or in part members and in part associates, provided all the members of the firm are either members or associates), may describe itself as "Members of the American Institute of Accountants," but a firm or partnership, all the individual members of which are not members of the Institute (or in part members and in part associates), or an individual practising under a style denoting a partnership when in fact there be no partner or partners, or a corporation or an individual or individuals practising under a style denoting a corporate organization, shall not use the designation "Members (or Associates) of the American Institute of Accountants."

(2) The preparation and certification of exhibits, statements, schedules or other forms of accountancy work, containing an essential misstatement of fact or omission therefrom of such a fact as would amount to an essential misstatement or a failure to put prospective investors on notice in respect of an essential or material fact not specifically shown in the balance-sheet itself, shall be, *ipso facto*, cause for expulsion or for such other discipline as the Council may impose upon proper presentation of proof that such misstatement was either wilful or the result of such gross negligence as to be inexcusable.

(3) No member shall allow any person to practise in his name as a public accountant who is not a member of the Institute or in partnership with him or in his employ on a salary.

(4) No member shall directly or indirectly allow or agree to allow a commission, brokerage or other participation by the laity in the fees or profits of his professional work; nor shall he accept directly or indirectly from the laity any commission, brokerage or other participation for professional or commercial business turned over to

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others as an incident of his services to clients.

(5) No member shall engage in any business or occupation conjointly with that of a public accountant, which in the opinion of the Executive Committee or of the Council is incompatible or inconsistent therewith.

(6) No member shall certify to any accounts, exhibits, statements, schedules or other forms of accountancy work which have not been verified entirely under the supervision of himself, a member of his firm, one of his staff, a member of this institute or a member of a similar association of good standing in foreign countries which has been approved by the Council.

(7) No member shall take part in any effort to secure the enactment or amendment of any state or federal law or of any regulation of any governmental or civic body, affecting the practice of the profession, without giving immediate notice thereof to the secretary of the institute, who in turn shall at once advise the Executive Committee or the Council.

(8) No member shall directly or indirectly solicit the clients or encroach upon the business of another member, but it is the right of any member to give proper service and advice to those asking such service or advice.

(9) For a period not exceeding two years after notice by the Committee on Ethical Publicity no member or associate shall be permitted to distribute circulars or other instruments of publicity without the consent and approval of said committee.

(10) No member shall directly or indirectly offer employment to an employe of a fellow member without first informing said fellow member of his intent. This rule shall not be construed so as to inhibit negotiations with any one who of his own initiative or in response to public advertisement shall apply to a member for employment.

(11) No member shall render professional service, the anticipated fee for which shall be contingent upon his findings and results thereof.

A comparison of these rules with those appearing as part of the by-laws of the American Association of Public Accountants discloses a number of points of similarity. This is especially marked in the comparison of the third, fourth, fifth, sixth and seventh rules of professional conduct with rules one, two, three, four and six of those of professional ethics of the Association.

In the accountancy profession, as in the case of the older professions of law and medicine, there are those who do not adhere strictly to the rules of conduct laid down for their guidance. Mr. Robert H. Montgomery in the latest revision of his book, *Auditing Theory and Practice* after calling attention to the rules of the American Institute as above set forth, states that "the student of accounting and the young practitioner should familiarize themselves with these recommendations and keep informed regarding the development of rules of ethics of the profession." At the Convention of the American Institute of Accountants, held in Washington in September, 1921, considerable discussion was had on the subject of professional publicity through means which were characterized as unprofessional. Mr. Montgomery on this point, while he does not condone the violations of those rules which are intended to discourage advertising or other forms of solicitation, yet speaks of them as violations of good taste only, and in no wise to be compared with the infractions of the more important rules dealing with the relationship of the accountant to his

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client and to the public. He suggests as a preventative of such infractions, the necessity of emphasizing and of developing to the highest degree the feeling of moral responsibility on the part of accountants which in the certificates granted by many of the states to the qualified candidate, is placed above the fact that such an one has passed a satisfactory examination.

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The Profession of Commerce in the Making

By F. M. Feiker

Vice-President of the McGraw Hill Company, Inc. and sometime Assistant to the Secretary of Commerce

THERE are distinct indications today of forces at work in business life which can recreate the purposes of commerce and set high standards for the conduct of business not only for America but for the world. In hundreds of meetings, across scores of luncheon tables, men are discussing the necessity for a new industrial leadership and the opportunity for that industrial leadership in America. The fine thing about these discussions by thoughtful men is that each sees in his own profession that opportunity for leadership. The lawyer, the engineer, the economist, the statesman, the industrialist, the banker, the manufacturer, the merchant and the salesman, men in all fields of professional and commercial activity are thinking in new terms of their work, and each in a different way is giving expression to a universal desire. Each is really trying to answer the question, old as civilization, which was phrased by Dean Kimball of Cornell when he said that we are attempting to solve the problem, "What is mine and what is thine?"

America above all other nations offers the most fruitful opportunity for a new leadership. Our social structure is not laid-up in a stratification of classes. It is still possible for a newspaper publisher to become President of the United States and for a steel mill hand to head the works. We are, as Americans, idealists. Business to us is an end in itself and not merely a means to an end. The novelist in interpreting the social responsibilities of industry, usually to its disparagement, is prone to overlook this fact. There is something truly American in the possibility that a man, only twenty years old, may come to our shores from Egypt and in ten years become owner of a factory and two retail stores.

The ferment for a new leadership of industry may all be considered from the viewpoint of the professionalizing of commerce. We are, as a nation, strong individualists. As Secretary of Commerce Hoover has put it, we have a very high individual efficiency in industry, but a very low collective efficiency. Creative business men are seeking for new measures of value. Service as a basis for profit-making is coming to be recognized as the true motive for creative industry. Business men are establishing codes of practice in all lines of industrial activity. Men in business are as human as artists or lawyers or chemists, and the ethical standards of men of business are no higher and no lower than the ethical standards of our people as a whole. What is apparent in industry, however, is a conscious effort, a definite attempt to make its standards known, to put commerce on a high plane, and to base creative industry on high ethical principles.

It is my purpose in the brief span of this article simply to outline what seem to be very definite indicators of the coming of a new leadership in industry. The first factor is youth. Broadly speaking, our industrial and commercial activities date from the Civil War. Many businesses were founded during that war and with the passing of years these early leaders and

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their immediate successors are going out of business. This means that a large group of men are taking up the reins of industry with a fresh viewpoint on their responsibilities as leaders. As a result what may be called a second-generation viewpoint has come to industry as a natural step in American industrial development. The men forming this new group, who might be listed by the hundreds, are the kind of men who made it possible for H. G. Wells to sell in America 250,000 copies of his book, the *Outline of History*, an unprecedented sale for a book of history, to be accounted for largely because Wells has fired the imagination of America and has shown the relation of America to the world in a new perspective. In the same way there exists in the American business consciousness a great reservoir of idealism and creative thought which may be mobilized in the direction of professional thinking about industry.

THE PROFESSIONAL CHARACTER OF THE TRADE ASSOCIATION

At a dinner during the Limitation of Arms Conference in Washington, a witty Englishman referred to America as the only nation where a dry banquet could be held with any enthusiasm. In his humorous comment on our national predilection for being "joiners," he put his finger on a mechanism in American industry, the association, which is one of the great forces to be put to work in professionalizing business, and which in many of its activities has indicated a recognition of this opportunity. The trade association movement is a conscious effort to secure collective action on the part of all classes of men in industry. There is no exact count of the number of trade associations, because there are scores of local associations in themselves unaffiliated as national organizations. But there are probably fifteen hundred technical societies, manufacturers' associations, jobbers' associations and retailers' associations of national character. These various associations and societies are organized sometimes on the basis of professional groups, sometimes on the basis of commodities, sometimes on the basis of trade relations. We have as a result a vast number of collective units in industry, functioning on their own problems, and, in some instances, functioning on one another's problems. Many of these associations are grouped and operate in a national way through such organizations as the United States Chamber of Commerce, the Federated American Engineering Societies, the National Association of Manufacturers, and so on.

No attempt can be made to discuss the minutiae of the work of these associations. There are thirty-five or forty functional activities which many of them carry on, but for the purposes of this article the interesting fact stands out that sooner or later such associations become professionally conscious, and as soon as they become professionally conscious, they set up for the guidance of each member standards of practice or codes of ethics which, broadly speaking, constitute a great structure, with the service motive as the standard for the conduct of the particular association or organization.

In emphasizing this phase of the development of the association there is no desire to sentimentalize about it. One might sentimentally consider that the fabric of industry is a cloth of gold, that all business is conducted on a high ethical plane. This is obviously not true. But the point to emphasize is the conscious effort that is being made constantly to set up standards of practice which in themselves have an ethical quality—golden threads in our national industrial fabric.

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Ethical structures in business are thus being reared through the collective action of trade associations and of semi-professional business organizations of one type or another. It is a trite saying among business competitors that when they meet each other for the first time through the medium of a trade association, the one discovers that the other no longer has "horns." Once having established a mutual respect for and sympathy with each other, it is a simple matter to take the next step and devolve a basis for competitive procedure which eliminates the waste to the consumer of the cut-throat competition that tears down creative enterprise and takes business scalps in a truly savage fashion.

Many semi-business organizations have put forces at work also in the direction of establishing practical codes of ethics for commercial procedure. The order of Rotarians is an outstanding example of such a body.

A second great force at work in the professionalizing of industry is that of specialized education in the technical and business schools of the country. Each year men go into business from college. In the specialized schools, particularly, more and more attention is being given to bringing before the student the relation of his specialized knowledge to the social and industrial problems that lie in the world outside his college walls.

THE NEW TECHNIQUE OF MANAGEMENT

The professionalizing of the technique of management is an interesting illustration of a distinct educational movement in the field of manufacturing. Management has gradually emerged through a period of years until it has been made a function in industry. It has become recognized pedagogically as the creative function of relating the capital invested in an enterprise, the men who work in the enterprise, the machinery, and the materials all together in order to turn out a manufactured product. Since the Civil War, factory production in America has emerged from the handicraft stage and has come to be mass production, involving the handling of great groups of men, of huge quantities of materials, of complicated processes of machinery, and of money representing capital investment. Out of this industrial movement have come the systematization of routine, the scientific study of processes and methods, and, more recently, the conception that the human relations of men in industry are susceptible of the same kind of analysis and thoughtful consideration in the mass.

Ten years ago I happened to be associated in a small way with the organization of one of the courses in industrial management of the Harvard Graduate School of Business Administration. I believe there were ten graduates the second year this school was established. In 1921 there were one hundred and eighty. This increase from ten to one hundred and eighty is another barometer of the development of the profession of management as a function in industry.

Again, in the field of distribution there is gradually emerging a type of thinking in which the technique is professional and not greatly different in character from that in production—the technique of the commercial economist. There is a welter of ideas in regard to "demand creation" and "demand supply," which are the academic expressions for selling and buying. The analysis of the movement of trade, the collection of the statistical facts with regard to trade, the attempt to visualize through statistics the rise and fall of business, all are indications of another attempt to introduce the pro-

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fessional viewpoint into industry. The "merchandising man" of the great department store, the advertising agent who is a counselor for his client in the analysis of the distribution of his products, both are energized in their work by a new conception of the service value of their particular businesses and of the businesses which they serve. There is a possibility of developing an entrepreneur of service.

INDUSTRIAL JOURNALISM AS A PROFESSIONALIZING FORCE

Industrial journalism at its best is a third great force in the development of the professional viewpoint in industry. The industrial press is a great force for the practical education of masses of men. There is a business paper for almost every trade and profession. Editors of business papers who are leaders in thought find the opportunity to express that leadership in terms other than mere reporting of the news of industry. The responsibility of the business press goes deeper than the gathering of news. It does no good to arouse either the individual or the nation to action unless there is also suggested a plan for turning this action into practice. This is an educational axiom, and the educational force of the business press offers an opportunity for leadership in the professionalizing of industry which is second to no other in raising the standards of commercial practice.

The leading editors of the business press are both a part of their industry and spectators on the side lines looking over industry. Because of their exceptional personal and intimate relations with leaders of industry they help to point out and chart the way it must follow. Moreover, they have a sense of social responsibility to the public, a responsibility which in itself is a professional conception of their own work.

Abraham Lincoln believed in the people. Opinion in this country has always been made by the people. Industrial opinion is made by a comparatively small percentage of the hundred millions in the country. The business press as a whole is the voice of industrial opinion, and a responsible business press is one of the greatest forces for practical accomplishment of high ideals in the world today.

The editors of the business papers have long been conscious of this responsibility, and some five years ago organized an Editorial Conference which provides a medium for the discussion of the common problems of industry and for the forwarding of its general plans. The editors have established detailed standards of practice for the conduct of industrial journalism, and during the last year a course in industrial publishing has been assembled and presented to classes formed by members of the New York Business Publishers' Association. This course is based on high ideals of service to industry.

DEVELOPMENTS IN THE DEPARTMENT OF COMMERCE

A new motivating force for establishing higher commercial standards in industry on the basis of fact has followed the appointment by President Harding of Herbert Hoover as Secretary of Commerce of the United States. Mr. Hoover has set for the Department of Commerce a high standard of service as a measure of its relation to industry, and in setting that standard of service has already made possible the coördination of many of the constructive purposes of the trade association and given new strength of purpose to the professional character of such associations.

This basis for professional conduct of associations and of the business

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which they represent is the very practical truth that business policies, both for the individual industries and for our national economic program, should be founded upon fact and not upon opinions. As a basis for establishing these professional facts with regard to industry, the Department of Commerce has been reorganized with special reference to the collection of statistics, the promotion of foreign trade, and the carrying forward of programs for the elimination of waste in industry through the elimination of excess variety in manufactured products and the simplification and standardization of sizes and parts. Contact committees have been formed in more than one hundred and fifty trade associations and technical bodies. These contact committees are at work on programs which provide a basis for a common understanding between industries and the opportunity for a wider education as to the possibilities of collective action in industry.

The impulse for this development of the Department of Commerce comes out of industry itself, and not from the Department into industry, and is another indication of the movement in business which I have called the "professionalizing of industry."

THE INTEGRITY OF AMERICAN BUSINESS

Business needs no apologies. American business at heart is sound in the same degree and for the same reasons that the nation itself is sound. Individually, American business men set high standards for themselves in a very practical way. Specifically, if you ask any so-called successful business man what he looks for first in hiring his associates, he will either answer directly in terms of character or picture his specifications in such a way that character is very evidently the thing he is trying to get at. That the essential quality of individual integrity and character is the basis for creative business enterprise is shown by the fact that once a man stumbles in full view of the public, the whole structure of business he may have reared tumbles to the ground because he will no longer be trusted. There are legendary tales of so-called big business men whose "private morals and personal ethics were their own business," but we have had many illustrations of the fact that masterfulness in business can be attained and held only by the sweetness and soundness of personal morality.

It is the collective expression of high ethical standards for the individual which is the foundation for the professional standards of men acting in groups. The structure of business itself rests on credit, which is nothing in the world but a collective appreciation of character.

American industry of the future, with a new vision of service expressed in the practical terms of the professionalizing of industry, is the hope of a reconstructed social and industrial fabric. The United States of America may leave an impression on civilization different in character from that made by any other nation and moving the world forward in a way that no other nation has done. America's expression in civilization must be essentially commercial. We are a commercial nation. But there is nothing cheap in this conception. We have high ideals for commerce. We are creators and dreamers. Rome left its imprint on civilization in war; Greece, in art. America can leave its imprint in the new sense of service which finds expression through commerce and industry.

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The Canons of Commercial Ethics

By J. H. TREGOE
Secretary-Treasurer, National Association of Credit Men

CAVEAT EMPTOR as a principle of merchandising grew from the nature of trading in its early stages. When the seller of commodities displayed them at fairs held in certain countries and at certain periods and the buyers congregated at these fairs for the purpose of bargaining and purchasing, the touch between the two, though immediate in one sense, was in reality very remote. The buyers and sellers might meet once and never again.

The proper principle, therefore, for the buyer to follow was the type of caution expressed in *caveat emptor*. Buying and selling was largely regarded as a field where shrewd and sharp practices ruled, and where the one most skilled in such practices reaped the largest material rewards. The relationship between buyer and seller was a cold one and a community of interests between them was not felt to exist.

The industrial revolution brought with it a change in the relationship between buyer and seller. Manufacturing on a large scale resulted in distribution on a large scale. With the geographical separation of seller and buyer that followed this large-scale manufacturing and large-scale distribution, commerce done on the principle of *caveat emptor* was on a precarious basis. Selling and buying needed a confidence and warmth which the principle of *caveat emptor* did not supply. Goods could not move freely if the buyer had continually "to beware." The compulsion was laid on the seller to make his goods of such quality as to remove the suspicion of the buyer and to insure his confidence in the goods. Thus, there developed the trade mark that today extends not only to individual sellers, but to whole communities and countries.

With large-scale manufacturing and distribution came the increased use of credit. Since credit is based on confidence, commerce based on credit could expand only as those engaged in it, both buyers and sellers, coöperated with one another to insure mutual confidence.

Credit is so directly related to commerce and is so susceptible of misuse and flagrant abuses that the National Association of Credit Men some years ago became convinced that certain ethical principles should be laid down for the control of commerce, and from year to year they have formulated canons of commercial ethics. These canons have now reached twelve in number. They are as follows:

CANONS OF COMMERCIAL ETHICS

Canon No. 1.—It is improper for a business man to participate with a lawyer in the doing of an act that would be improper and unprofessional for the lawyer to do.

Canon No. 2.—It undermines the integrity of business for business men to support lawyers who indulge in unprofessional practices. The lawyer who will do wrong things for ONE business man injures ALL business men. He not only injures his profession, but he is a menace to the business community.

Canon No. 3.—To punish and expose the guilty is one thing; to help the unfortunate but innocent debtor to rise is another; but both duties are equally important, for both duties make for a higher moral standard of action on the part of business men.

Canon No. 4.—In times of trouble, the unfortunate business man has the right to appeal to his fellow business men for advice and assistance. Selfish interests must be

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subordinated in such a case, and all must coöperate to help. If the debtor's assets are to be administered, all creditors must join in coöperating. To fail in such a case is to fall below the best standards of commercial and association ethics.

Canon No. 5.—The pledged word upon which another relies is sacred among business gentlemen. The order for a bill of goods upon which the seller relies is the pledged word of a business man. No gentleman in business, without a reason that should be satisfactory to the seller, may cancel an order. He would not ask to be relieved of his obligation upon a note or check, and his contracts of purchase and sale should be equally binding. The technical defense that he has not bound himself in writing may avail him in the courts of law, but not of business ethics.

Canon No. 6.—Terms of sale as a part of a contract touching both net and discount maturity, are for buyer and seller alike binding and mutual, unless modified by previous or concurrent mutual agreement.

No business gentleman may, in the performance of his contracts, seek small or petty advantage, or throw the burden of a mistake in judgment upon another, but must keep his word as good as his bond, and when entering into a contract of sale faithfully observe the terms, and thus redeem the assumed promise.

Canon No. 7.—It is always improper for one occupying a fiduciary position to make a secret personal profit therefrom. A member of a creditors' committee, for example, may not, without freely disclosing the fact, receive any compensation for his services, for such practices lead to secret preferences and tend to destroy the confidence of business men in each other. "No man can serve two masters."

Canon No. 8.—The stability of commerce and credits rests upon honorable methods and practices of business men in their relations with one another, and it is improper for one creditor to obtain or seek to obtain a preference over other creditors of equal standing from the estate of an insolvent debtor, for in so doing he takes, or endeavors to take, more than his just proportion of the estate and therefore what properly belongs to others.

Canon No. 9.—Coöperation is unity of action, though not necessarily unity of thought. When the administration of an insolvent estate is undertaken by the creditors through friendly instrumentalities, or when, after critical investigation, creditors representing a large majority of the indebtedness advise the acceptance of a composition as representing a fair and just distribution of a debtor's assets, it is uncooperative and commercially unethical for a creditor to refuse the friendly instrument or the composition arbitrarily and force thereby a form of administration that will be prejudicial and expensive to the interests of everyone concerned.

Canon No. 10.—Our credit system is founded on principles, the underlying elements of which are coöperation and reciprocity in interchange. When ledger and credit information is sought and given in a spirit inspiring mutual confidence, a potent factor for safety in credit granting has been set at work.

The interchange of ledger and credit information cannot fulfill its best and most important purposes unless guarded with equal sense of fairness and honesty by both the credit department that asks for the information and the credit department that furnishes it.

Recognizing that the conferring of a benefit creates an obligation, reciprocity in the interchange of credit information is an indispensable foundation principle; and a credit department seeking information should reciprocate with a statement of its own experience in the expectation of getting the information sought; and a credit department of which information is sought should respond fairly and accurately because the fundamentals of credit interchange have been observed in the manner the request was made of it.

Failure to observe and defend this principle would tend to defeat the binding together of credit grantors for skilful work—a vital principle of the credit system—and make the offending department guilty of an unfair and unethical act.

Canon No. 11.—The foundation principle of our credit structure—coöperation—should dominate and control whenever the financial affairs of a debtor become insol-

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vent or involved, that equality thereby may be assured to the creditors themselves and justice to the debtor.

The control of any lesser principle produces waste, diffusion of effort and a sacrifice of interests, material and moral, with a separation of creditor and debtor that is offensive to the best laws of credit procedure.

Coöperation and unity save, construct and prevent; therefore, individual action pursued regardless of other interests in such situations, whether secretly or openly expressed by either creditor or debtor, is unwise and unethical.

Canon No. 12.—The healthy expansion of commerce and credits, with due regard to the preservation of their stability and healthfulness, demands an exact honesty in all of the methods and practices upon which they are founded. Advertising is an important feature in business building; it should represent and never misrepresent; it should win reliance and never cover deceit; it should be the true expression of the commodity or the service offered. It must be deemed, therefore, highly improper and unethical for advertisements to be so phrased or expressed as not to present real facts, and either directly or by implication to mislead or deceive. In this department the finest sense of honesty and fairness must be preserved, and the right relations of men with one another in commerce and credits clearly preserved.

These canons are largely self-explanatory to anyone familiar with business, but a regrouping of them with some comments may serve to bring out the standing evils against which they are directed.

The first two canons bring out strongly the point that the business man should not participate with a lawyer in any act which it is improper and unprofessional for the lawyer to perform. It is emphasized in these two canons that the integrity of business is undermined by improper practices of this type and that the lawyer who will do for one business man an improper thing will do it for all business men.

Canons 3 and 4 are designed to remove a lack of coöperation and organized effort in the prosecution of commercial crime and in the helping of worthy debtors. To those familiar with the dangers to business that result from lack of coöperation among creditors in dealing with their debtors these canons need no further comment.

Canons 5 and 6 plead for the sanctity of contractual obligations and condemn the violation of them. Cancellations, the taking of unearned discounts and other violations of contract come under this head. The fundamental element of all trade is the contract which should be equally binding both upon the seller and the buyer. Briefly stated, the American business man should deliver what he sells and take what he buys.

Canons 7, 8, 9 and 11 are appeals for further coöperation among creditors. They condemn the violations of trust, the existence of secret preferences by which certain creditors obtain advantages over others. The observance of these canons make for stability of business and for the insurance of justice to both creditors and debtors.

Canon 10 is an appeal for the observance of confidence in connection with the interchange of ledger and credit experience. The stability of credit depends upon the widest coöperation in the giving of credit experience. A reciprocal obligation exists between creditors in the giving of this experience and the absence of such coöperation can only result in harm to credit and to business.

Canon 12 is an appeal for honest advertising. The relation of advertising to credit may seem at first glance remote, but a consideration of this relationship shows how closely advertising and credit are linked. Confidence, which is the basis of credit, is de-

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stroyed if commodities fail to measure up to the representations of them.

That the stability of commerce rests upon the observance of such canons is apparent to anyone with business experience. The promulgation of them and their backing by the organized power of the credit men of the National Association cannot but result in higher standards of business practice and thus in a service not only to business but to the whole social community.

History and Present Status of the "Truth-in-Advertising" Movement

As Carried on by the Vigilance Committee of the Associated Advertising Clubs of the World

By HERBERT W. HESS

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AN intelligent appreciation of the creative processes at work in modern advertising efforts to establish practices of truth and integrity in relations between producer, seller and the public, necessitates a review of the different stages from the non-organized effort to the present-day organized movement known as "Truth-in-Advertising." The stages are three in number: First, the unscientific day, before 1895, when fraudulent advertising was everywhere countenanced, with occasional state laws passed in an attempt to get at flagrant violations; second, the semi-scientific period, from 1893 to 1911, when standards were in the making and when evils were being clearly defined; third, the beginning of a scientific period, from 1911 to the present, when the Associated Advertising Clubs succeeded in organizing and financing its Vigilance Committee with a definite program to encourage first and to compel afterwards—"Truth-in-Advertising."

The birth of "Truth-in-Advertising" can be clearly seen as a natural part of orderly evolution in the making of advertising history, when once our modern concept of advertising is clearly defined. Let us review its significance. Advertising has rightly been called a business force. It is a force the dynamics of which, through the cumulative power of its organized ideas, nullifies the customs of ages and breaks down the barriers of individual habits of limited thinking. It works for the future and establishes concepts related to higher standards of living. It is at once destroyer and creator in the process of the ever-evolving new. Its constructive effort is to superimpose new conceptions of individual attainment and community desire. Advertising plays near the heart of humanity, for it touches the mainspring of individual ambition and group desire. It is one of the creative mechanisms of our day, involving individual and group aspirations. It is at once master and servant of those who wield its power. It is a master when it sets the energy impulse of man toward the realization of wishes, desires and wants. It is a servant of the individual advertiser when, through its form, it speaks the right word at the right time, in the right place, and

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in the right mood. And it is at this particular juncture of advertising analysis and modern experience that the "Truth" concept was born.

Some business enterprises through opportunism involving unfair profits and deceptive practices, have shied at ethics and have been false and unfair in their advertising appeal. *Caveat emptor* might have been a necessary slogan involving the instinct of self-preservation when business was whim, caprice, childish wonder and greed; in other words, unscientific. But with the onrush of scientific thinking into the affairs of daily business, somehow conscience began to find its technique. To the wonder of the strong and more efficient, there began to dawn in their consciousness a conviction that modern business not only *might* but *must* become strong in its demands for truthfulness in advertising practices.

These first sentiments as a result of the previous "hit and miss" conceptions of action for the suppression of fraudulent, misleading, exaggerated and indecent advertising, are aptly described by John Irving Romer in *Printers' Ink* of June 29, 1893, as follows:

> The only criticism of the Boston Convention that has been heard anywhere is that it did not present a definite plan for the elimination of objectionable forms of advertising. Critics said, and say today, "What does all this talk about a higher ethical tone in advertising amount to? How can the offenders be reached?" Honest men will continue to be honest and dishonest men will continue to follow their devious methods, laughing in their sleeves at those who seek to accomplish reforms by mere preachments.
>
> It is as if reformers went up and down the land denouncing burglary. You can get 99 per cent of the public to agree with you that burglary is a very wicked thing and should be suppressed. But the one per cent will break into your house at night and walk off with your solid silver—that is, *unless there is a law which makes burglary a crime, and a police force that will enforce law.*
>
> Can the power of the law be invoked to eradicate dishonest advertising? If so, can a police force be marshaled which will make the law effective?

Thus was sentiment beginning to gather in the year 1893. In reviewing the evolutionary processes involved in the establishment of higher and better practices in modern advertising, it is only right that we characterize the lack of faith on the part of our forefathers as due to their ignorance of the fructifying power of science to render a livelihood to an increasingly large number of people. It seems as if the modern tendency to establish relations based on the idea of honesty is because we are beginning to find productivity to be possible within the constitution of natural laws and sciences. These, working together render riches in abundance to those whose courage is maintained throughout the selling process.

Thus conscience and science become one in a healthy struggle to realize individual ambitions. That the type of thinking of the "pre-truth" days was childish and magical in its reaction to life can be readily appreciated by the following advertisements of the sixteenth century:

> Loss of Memory, or Forgetfulness, certainly cured by a grateful electuary peculiarly adapted for that end; it strikes at the primary source, which few apprehend, of forgetfulness, makes the head clear and easy, the spirits free, active, and undisturbed, corroborates and revives all the noble faculties of the soul, such as thought, judgment, apprehension, reason and memory, which last in particular it so strengthens as to render that faculty exceeding quick and good beyond imagination; thereby enabling those whose memory was before almost totally lost, to remember the minutest circumstances of their affairs, etc.

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to a wonder. Price 2s. 6d a pot. Sold only at Mr. Payne's, at the Angel and Crown, in St. Paul's Churchyard, with directions.

Since so many upstarts do daily publish one thing or other to counterfeit the original strops, for setting razors, penknives, lancets, etc., upon, and pretend them to be most excellent; the first author of the said strops, does hereby testify that all such sort of things are only made in imitation of the true ones which are permitted to be sold by no one but Mr. Shipton, at John's Coffee House, in Exchange Alley, as hath been often mentioned in the Gazettes, to prevent people being further imposed upon.

An opposition notice appeared shortly afterwards in the *Daily Courant* of January 11:

The right Venetian Strops, being the only fam'd ones made, as appears by the many thousands that have been sold, notwithstanding the many false shams and ridiculous pretences, as "original," etc., that are almost every day published to promote the sale of counterfeits, and to lessen the great and truly wonderful fame of the Venetian Strops, which are most certainly the best in the world, for they will give razors, penknives, lancets, etc., such an exquisite fine, smooth, sharp exact and durable edge, that the like was never known, which has been experienced by thousands of gentlemen in England, Scotland and Ireland. Are sold only at Mr. Allcraft's, a toy shop at the Blue Coat Boy, against the Royal Exchange, &c. &c.

An editor of one paper even in these earlier days must have had remorse of conscience as is indicated in the following:

Pray, mind the half sheet. Like lawyers, I take all courses. I may fairly; who likes not may stop here.

A second stage in the development of better advertising practices was an attempt in the year 1911 to discover whether or not the common law could be made to bring a violator to terms.

H. D. Nims in *Printers' Ink* of 1911 touches upon this aspect in the following excerpt:

At common law a civil action was possible against a person who deceived another by false or fraudulent statements, and in such an action, damages might be recovered representing the differences between the value of the thing actually sold in connection with the fraudulent statements and the value of what should have been sold had the representations been made in good faith. This civil action is of little value in preventing frauds of this kind, because of the necessity of proving this damage, and because oftentimes the damage on this basis would be very small. It would be quite possible to pass a statute which would compel the defendant, on judgment being obtained against him, to pay triple damages as is provided in the Sherman Act and even greater damages than this could probably be so authorized if advisable. It is doubtful, however, whether if such a remedy as this was created, it would be sufficiently useful to serve as a preventative of these fraudulent acts.

Turning to the criminal side of the common law, there appears to have been no indictable offense recognized by it which corresponds very accurately to the originating and publishing of a fraudulent advertisement. The nearest analogy to it is found in what the common law called a "cheat" which, according to East's *Pleas of the Crown*, Vol. 2, p. 818, consists in the fraudulent obtaining of the property of another by any deceitful and illegal practice or taken (short of felony) which affects or may affect the public.

A review of the laws of the common laws of United States pertaining to advertising resulted in the following:

COMMON LAW SUMMARIZED

It may be said that (1) there is nothing in the common law, or in these old English statutes which are a part of American common law, which would furnish an argument against enacting statutes making fraudulent advertising a crime; (2) that the common law and the English statutes

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mentioned furnish, by analogy, ample argument for the contention that fraudulent advertising is a cheat or false pretense, and therefore should be regarded as a crime under the various state statutes prohibiting the use of false pretenses, provided it results in definite injury to some person; (3) that there are statutes in most, if not all, of the states of the Union prohibiting the use of all false pretenses which result in actual injury; (4) that very few courts have passed on the question as to whether or not the use of a fraudulent advertisement is a crime under these statutes.

Experience, science and law finally forced recognition of three courses of procedure. Mr. Haase states them as follows:

> Three courses are open to you in taking up this matter. First, you can recommend that these general laws regarding false pretenses be amended in each state in such way as may be necessary. Secondly, you can advocate in the various states that merchants of the Advertising Clubs do as is being done in Atlanta—start and push test cases under the general false pretense statutes. Or, thirdly, you can advocate the passage in all of the states, of acts similar to the New York and Massachusetts statutes, both of which, it may be, can be somewhat improved upon.

The influence of *Printers' Ink* in its constant interest finally resulted in Mr. Nim's "Model Statute" based upon existing statutes in certain states, amplifying certain points which were considered advisable. This statute was then offered by *Printers' Ink* as a suggestion to the Associated Advertising Clubs of America whose combined influence has succeeded in establishing the "Model Statute" as law in twenty-three states. A definite course of action is now being planned to secure its passage in every state. Its form follows:

The Model Statute

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor.

To reinforce this law there has finally been evolved in advertising practice what is known as the "Truth-in-Advertising" Movement. It was initiated by the Associated Advertising Clubs of the World, which is what its name implies—a world-wide association of advertising clubs. The movement finds expression through a special department of the association, known as the National Vigilance Committee, and through Better Business Bureaus and Commissions, located in most of the principal cities of the United States.

"The National Vigilance Committee," as the plan is worked out, "concerns itself with abuses of national advertising, and also works in coöperation with the local Bureaus, which in turn, coöperate with each other, thus maintaining a nation-wide organization.

"The membership of a Bureau, which is by firm, includes newspapers and other publications, retailers, banks, investment bankers, advertising agencies, manufacturers, wholesalers, etc.

"Any local business house of good standing is eligible to membership.

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Such membership carries the privilege of complaint against abuses of advertising, the right to receive all bulletins issued by the Bureau, the advantage of certain forms of confidential Bureau service, and, of course, a share in the credit for the accomplishments of the organization.

"Bureau work has two main divisions—Merchandise and Financial. The Merchandise Division directs its attention to abuses of advertising in such fields as department stores, men's and women's apparel, other retail groups, automotive and technical, medical and drug, food and beverages, etc. The Financial Division is concerned largely with questionable stock promotion schemes."

Better Business Bureaus are now in operation in thirty-two cities of the United States. The work of these bureaus is not only critical and condemnatory of bad practices but it is constructive as well. For instance, the Better Business Commission of the Cleveland Advertising Club offers recommendations as a guide to assist in avoiding advertising statements and practices that have a tendency to reduce consumer's confidence in all advertising.

The bureaus render definite forms of service. Statements of these services with typical applications of each are as follows:

1. *The Better Business Bureau protects the buying public against deception and possible fraud in advertising and merchandising by investigating and correcting wrong practices.*

Certain seasonable goods have often been priced at a stated figure a few weeks previous and later offered at a greatly reduced price. The former price is used in many instances as the value, when, in fact, the value of such an article has been greatly reduced on account of the season and other conditions and such a statement would be more or less misleading.

2. *Persuades individual firms to discontinue unfair tactics that work to the disadvantage of competitors.*

Manufacturers have been known to bill goods to retailers with the misstatement that the goods were all wool. The retailer has in his turn sold them to the public as all wool. The court held that there was no defense. The retailer should have known whether or not they were all wool. The public has a right to look upon the retailer as an expert.

3. *Removes unjustified suspicion and misunderstanding between competitors by getting the facts regarding suspected advertising and merchandising practices and reporting upon their real character.*

The Federal Trade Commission, in conjunction with a Conference on Trade Practices of the Pyroxylin Plastic Industry, developed the following points concerning the branding and advertising of pyroxylin articles:

We are opposed to the use of the words "Ivory," "Shell," "Amber," Jade," "Coral," etc., in any other than an *adjective* sense, and then only when coupled with the name of the material or some other qualifying term, such as *color*, *finish*, etc. Illustrative of the foregoing, the following, and similar terms, would be permissible: "Ivory Celluloid," "Ivory Pyralin," "Ivory Fibreloid," "Ivory Viscoloid," "Ivory Zynolite," "Ivory Acwelite," etc., "Ivory Color Celluloid," etc., "Ivory Color Dressing Combs," "Ivory Finish Combs," "Imitation Ivory," "Imitation Shell," etc. The following and similar terms would be objectionable: "French Ivory," "Parisian Ivory," "Tortoise-Shell," "Tortoise-Shell Eyeglasses," "Ivory Combs," "Florentine Shell," "Ivory Toilet Sets," "Pyralin Ivory," "Jade Necklaces," "Coral Necklaces," "American Ivory," etc.

We are further opposed to the use of the words "French," "Parisian," or any other geographical designations in connection

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with the material or articles fabricated therefrom, unless they truly express the point of origin and are coupled with some other qualifying term, such as *color, finish*, etc. Under the foregoing, the terms "French Ivory," "Florentine Shell," etc., would be objectionable, while "French Ivory Finish" would be permissible if the thing in question originated in France.

4. *Reduces the burden of unjustified public suspicion which may, through misunderstanding, rest upon the advertising or merchandising of any institution.*

The following circular of the Vigilance Committee evidences their watchfulness on this point.

"SELF-COLLECTION" LETTER SYSTEMS

It has been brought to our attention that a number of so-called collection agencies, systems, or associations are advertising in the "Salesmen Wanted" and "Business Opportunity" columns of newspapers and magazines. The following is a representative piece of their copy:

Agents—$25 to $100 per day—Salesmen selling absolute necessity to merchants and professional men. 525 per cent profit. Big weekly repeater. To ambitious men and women this means $10,000–$50,000 yearly. Send dime to cover mailing. Outfit free.

The earning claims in the classified advertisements appear exaggerated and are objectionable in themselves, but a more serious consideration arises from the manner in which these systems operate.

The salesmen purchase the systems for prices ranging from one to two dollars and resell them to merchants for five or six dollars, thus pocketing an exorbitant profit on each transaction. We understand that the systems are composed of a series of collection letters for delinquent accounts. It is said that merchants fill in and mail the letters, making it appear that the communications come direct from the collection agency office, whereas the so-called agency has nothing to do with them after they are sold to the merchant. This is, of course, a misrepresentation of facts and we believe savors of duress, besides appearing to be a species of false pretense. The Committee is of the opinion that it is not only a violation of the law, but that a debtor could set up a valid defense against the account if the matter was pressed to a suit.

Merchants desiring to protect the Good Will of their businesses should be warned against this questionable method of collecting delinquent accounts.

Publications are given these facts so they may be fully informed concerning a practice of confidence-destroying character.

NATIONAL VIGILANCE COMMITTEE

5. *Seeks to create maximum public confidence in every recognized form of advertising—out-of-doors as well as newspaper, magazine, direct mail, etc.—by making all advertising trustworthy.*

Customers dissatisfied by reason of unfortunate experiences with advertised goods or services may secure adjustments through the Bureau, which at the same time takes advantage of the opportunity to educate the advertiser in error to better methods and to impress on the individual customer the integrity of most business.

A woman in Portland ordered a pair of solid gold earrings of special design. When the earrings were delivered, she became suspicious of their quality and a test by another jeweler confirmed her opinion that they were not solid gold. The customer attempted to get a refund of her money, which was refused. She took up the matter with the Better Business Bureau, which found the facts to be as represented by the woman. At first the store was not inclined to concede anything, but a straight-from-the-shoulder talk to the manager on the influence of such methods on the prestige of his business and the Good Will of all business brought results. A refund was made to the woman and the store had been given a new conception of the cash-drawer value of honesty in merchandising.

6. *Increases public confidence in all advertising and merchandising by coöperating with the advertiser to represent*

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correctly his goods and the conditions under which they are sold.

STATEMENT:—"$10 Y Fire Extinguishers, $4.98. Buy one and reduce your auto insurance 15 per cent."

It was called to the attention of the Bureau that these fire extinguishers did not all contain a Fire Underwriter's label and that they did not all reduce premiums on automobile insurance.

The matter was taken up with the Y Manufacturing Co. and it was learned that they had been in communication with the advertiser in advance. Both the manufacturer and the Vigilance Committee have been assured that care will be taken to prevent a reoccurrence of this matter in the future.

7. Helps an advertiser make his printed announcements more believable and productive. In many cases it turns an unscrupulous advertiser into a fair-dealing advertiser.

"RUST-PROOF IRON"

The Bureau received a postal card signed by a Mrs. X, stating that she had bought a well-known washing-machine from a local firm who had advertised same as being rust-proof and that after short use, it had rusted and that the firm in question had refused to make a satisfactory adjustment.

INVESTIGATION: The local representative for Y Iron stated that their product should not be advertised as "rust-proof," but could be advertised as "rust-resisting." This information was not submitted to the retailer, who sold the washing-machine, as the Bureau desired to make a complete investigation as to whether the lady who had purchased same had given it reasonable care. It was found that no such person lived at 3d Street, or 4th Avenue.

RESULTS: However, the next advertisement of the retailer in question carried the words "rust-resisting" in explanation of Y Iron—this without any suggestion from the Bureau that an investigation was being made. The constructive power of the Bureau had apparently had a silent but imperative effect.

It later developed that apparently a competitor of the retailer had made the complaint to test the efficiency of the Bureau as well as to "knock his competitor." The case was thus automatically cleared up to the satisfaction of all concerned.

8. Protects public confidence in the business community as a reliable trade center so that buyers in the surrounding territory may feel that they will get value-received in a Bureau City.

STATEMENT:—"Lots $500 to $600. Write or phone for an appointment to inspect B by motor or airplane."

We received a complaint to the effect that the lots advertised at $500 to $600 were not sufficient in size to be used as a home site and that when one answered the advertisement it was explained by the salesman that two or more would have to be purchased in order to secure sufficient area upon which to build. It was further reported that one of the representatives of the advertiser had been approached on the question of inspecting B by airplane and his answer was that the statement offering an airplane inspection was a joke.

Our investigator called upon Mr. D, who admitted that the lots were too small for home sites and that the property was divided into this size lot (25 x 150) so that it would be possible for a purchaser to secure a 75 foot front by buying 3 lots, while this would not be possible if they were divided into 50 foot lots.

Our investigator explained to him that there was no objection as to the size of the lots or the quoting of the price of a single lot so long as the copy made clear the fact that one could not purchase a single lot and secure sufficient ground upon which to build a home.

When Mr. D was approached on the question of the airplane inspection, he said that arrangements had been made with the flying field at K for an airplane and that if our investigator wished to make the trip, the plane was at his disposal.

9. Informs stores which are members of the Bureau concerning misleading statements made by employes with respect

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to goods advertised, as well as the unfamiliarity of employes with merchandise advertised by their respective departments.

STATEMENT:—"Gillette Razor, 50c."

Our investigator noticed the sign in the window of the above-named store and, upon going in and purchasing one of the razors, found that it was one of German make designed to resemble the Gillette razor.

He called this to the attention of the advertiser, who immediately removed the sign.

10. *Coöperates with an honest business institution to help it remove confidence-destroying spots in its own advertising and merchandising.*

AUCTION SALE OF UNREDEEMED PLEDGES

A well-known firm of auctioneers advertised a two-day public sale of "Thousands of Unredeemed Pledges of D's Loan Office."

INVESTIGATION: Investigation showed the fact that the great majority of the articles offered for sale had never been in the stock of D's Loan Office, were not unredeemed pledges of any kind and were, in truth, the property of another well-known loan office, which was keeping its own name in the dark and had simply arranged the sale under the advertised name of the auctioneer company.

RESULTS: The auctioneer was advised that his sale could not continue unless the truth of the matter was clearly given to the public. The owner of the stock, whose name did not appear, was advised likewise and the sale did not open on the second day. The first day's sale was conducted at a loss of something over $100, which is a striking evidence of the poor business probable as a result of misleading and untrue advertising. The Bureau is convinced that had the sale been advertised strictly according to the facts in the case and conducted along the same lines, there is no doubt that it would have been a success.

STATISTICS WERE TRUE

A company selling orchard lands in a southern state published, in its prospectus, statistics of probable yields from bearing trees which were questioned by a prospective purchaser. Investigation showed that the advertiser had based the data in question on carefully verified figures and had understated rather than overstated his proposition based on actual yields. In conference with representatives of the company, the committee recommended that future advertising state the sources from which the figures quoted were derived and make clear the care with which the yields were verified and analyzed, in order that believability might be increased.

11. *Curbs certain types of fraud such as "home work" schemes and "gyp" sales, advertising both locally and nationally in the classified columns of newspapers and magazines and by direct mail.*

Y SECURITIES ADVERTISING

D's "investment house," the Y Securities Company, posed in many advertisements as a regular establishment dealing in "reliable industrial securities." This appears on the letterhead, although we have been unable to discover that either D or the Y Securities Company ever dealt in anything but the stocks of D's various enterprises.

In a magazine called, with fine irony, "*Truth*," and containing about as wild and unreliable "news" of phenomenal fortunes made in oil as we have ever seen, the Y Securities Company was a liberal "advertiser," if, indeed, the magazine was not merely a house organ for that company. In one of these announcements it is stated, in an effort to sell Y Securities stock, that "Here is a chance for you to take absolutely sure profits out of the great Texas oil boom. The Y Securities Company is as sound and as strong as the Rock of Gibraltar. It markets nothing but the very best oil securities, and it takes no risk of any sort whatever. Every transaction brings its stockholders a profit."

As before stated, this company dealt in D's stocks exclusively: X Oil, now in a receiver's hands, Y Oil and Refining, now defunct, and the Y Securities Company, "as sound and as strong as the Rock of Gibraltar," which is also now defunct.

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ADVERTISING FOR "SUCKER LIST"

D has more than once advertised in newspapers offering to send free to inquirers, maps and data regarding the Texas oil fields. These advertisements do not mention his oil companies but they are merely inserted to get additional names for his "sucker list."

We suggest that copy received from D be weighed in the light of facts set out above.

12. *Promotes state and municipal legislation for the better protection of legitimate business and the public from abuses of advertising. But only flagrant misuses of advertising are prosecuted, and then only as a last resort.*

Examination of X, said to have been the organizer of four Suit Clubs, will take place in Police Court according to information given out by the Prosecuting Attorney.

The warrant was issued after investigation by the Better Business Bureau in conjunction with the Prosecuting Attorney's office. Men who joined the clubs, it is charged, paid $1 a week until a certain amount had been placed to their credit. Then they were supposed to have the privilege of selecting a tailored suit. Once a week, it was advertised, a drawing would be held and suit given free.

Investigators working for the Better Business Bureau have been informed by local detectives that no one has received a suit free as far as they have been able to ascertain. A foreman in the Plant told detectives he was notified that he had won a $38 suit, but when he went to claim it he was informed that all suits at this price had been disposed of, but he could obtain a $55 suit by paying the difference.

According to the Prosecutor few men ever got suits for the amount they agreed to pay. After paying in the required sum, it was charged, the club members were informed that cloth had gone up and the suit would cost $70 or more. There are approximately 300 complaints in the Prosecutor's office, the police say, of persons who have paid their money and never have drawn a suit of clothes. Four shops were maintained in P—.

13. *Secures adjustments for customers dissatisfied by reason of unfortunate experiences with advertised goods or service, at the same time taking advantage of the opportunity to educate the advertiser in error to better methods and to impress on the individual customer the integrity of most business.*

This practice of deceptive cuts or illustrations is causing much dissatisfaction and is greatly decreasing reader-confidence because,

1. The reader always assumes, and rightfully so, that cuts are samples of the merchandise offered for sale (the only exception being announcement advertisements and others of general nature).

2. When it is found the style represented by a cut is not to be had, and, perhaps, never was included, there is a great big loss of *good will.*

Is it worth it? If you have experienced some of the reactions of the buying public as the author has experienced them, you would say NO. Besides, some advertisers seem to use such cuts with intent to mislead.

14. *Takes the necessary steps to protect investment bankers from the unfair competition of fraudulent stock promotions, conserving money in legitimate business channels in the interest of banks and business generally, and maintaining the confidence of the public in the advertising of worthy investment securities.*

The Minneapolis Business Bureau reports its experience as follows: The Bureau has consistently extended and received coöperation from the State Securities Commission in the realm of speculative financial advertising. The investigation of "Fraudulent Financial Advertising" is directed against those who seek to reach investors, big and little, with promises of handsome and impossible returns. Considerable research is required. This is especially true here because an amendment to the Blue Sky Law in 1919 prevents the newspaper advertising of any security not approved by the Securities Commission.

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So to a very large extent, promoters of alluring but undesirable investments, securities, oil stocks and get-rich-quick schemers have resorted to sucker lists and direct-by-mail-advertising.

Again quoting Mr. Lee in *Printers' Ink* of June 16, 1921, the following summary is suggestive of the strides made by the Truth-in-Advertising Movement:

There was a need for the Model Statute. It reaches the fraudulent advertiser. Its validity has been upheld whenever attacked. It is used and not misused. It has helped advertising. It is the background of this association.

The year that ended on May 1, 1921, has been the greatest year in the history of the Vigilance Committee, speaking in terms of definite accomplishments. During that year approximately 1,000 cases were investigated, 650 of which have led to definite, successful results. Approximately 1,655 inquiries have been handled.

Figures reported by local bureaus for the year show that 6,815 cases have been investigated and that there have been but 51 prosecutions.

We no longer find it necessary to explain or defend the movement. Our mail is intelligent. The letters we receive show that the movement is understood.

We have gone safely in order that we may go far.

Now we have come to the point where we must expand. We are to stop theorizing that we are covering the entire country and actually cover it.

All of the Better Business Bureaus of the country are to be joined in an association. That association and the National Vigilance Committee are to be welded into one body. This plan was discussed at the convention of the Associated Clubs and will be acted upon in a short time.

In order to make our work national in scope and in order to handle every case that comes up we must have contact in every county in every state in the Union.

I have said that we have relied upon the Postal Law in certain cases. We want the Model Statute to be the whole force so far as law is concerned. Through the new contacts which are to be created we intend to have the Model Statute enacted into law in every state in the Union. It has been asked why we do not endeavor to have the Model Statute made a federal law. This we do not want. There are several reasons. The most important one is that it is possible to obtain action more readily in the state courts than it is in the federal courts. There are generally not so many other cases ahead in the state courts.

At Atlanta a campaign for the purpose of putting the Model Statute on the legislative records of those states which do not now have it was discussed. It is now planned to publish a brief on "The Law and Misleading Advertising," which will contain a discussion of existing laws affecting advertising and the prevention of fraud and which will show why the Model Statute should be enacted into law exactly as it was first proposed by *Printers' Ink*. This brief will be given wide publicity as an educational force.

Unless we can put the law on the books of every state this movement cannot advance as it should. The Model Statute has been the ounce of prevention that has made it unnecessary for the advertising business to look for the pound of cure that surely would have been necessary had the Model Statute not been enacted into law in an increasing number of states since 1913.

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Better Ethical Standards for Business

The Purpose of the Commercial Standards Council

By WILLIAMS HAYNES

President, Drug and Chemical Markets, New York City, Chairman, Educational Committee, Commercial Standards Council

ALTHOUGH there is full knowledge of good and evil among business men, nevertheless, business ethics have always lacked the class consciousness of professional ethics and as a result, the ethical forces of business have not been well organized. Despite the Clayton Act and the Sherman Law, "fair and honest dealing" is as yet ill-defined; in many industries "trade custom" is still the only ethical code; what is condoned in one industry as a business necessity is condemned in another as business dishonesty. This confused and complicated situation has been hurt, rather than helped, during the past five years.

The mad scramble for the extra profits scattered broadcast before all industries by the War; the wholesale cancellations of contracts at the signing of the Armistice; the demoralization of both buyer and seller during the deflation period, are all reflected in business tendencies, commonly noted in many directions. And there is danger lest these tendencies develop and become fixed during the years of bitter competition that are before us. It is, therefore, significant that just at this time a national organization, composed of members drawn from every business field, should be formed with this avowed object: "To develop the highest commercial standards and to eliminate harmful business practices." This first cooperative association of the ethical forces of American business is known as the Commercial Standards Council.

The organization was born at a meeting in New York City in January of 1922. A group of men composed largely of the officers of national business associations, called together by the author, met to discuss ways and means of assisting in the passage of the Judiciary Committee Bill (H. R. Bill 10159) "to further protect interstate and foreign commerce against bribery and other corrupt trade practices."

OBJECTS AND ORGANIZATION

For the purpose of fostering higher business standards and eliminating business malpractices, the Commercial Standards Council binds together commercial organizations of many types in many fields, and also firms and individuals interested in better business ethics. Its president, very fittingly, is a purchasing agent; its secretary, an advertising man. On its Executive Board serve a well known sales manager, the publisher of a business paper, representatives of the shipping and the paint and varnish industries, and a college professor. Affiliated with it are many business organizations representing credit men, purchasing agents, advertisers, sales managers, and manufacturers of such varied products as chemicals, printing inks, coal-tar dyes, office appliances, celluloid, disinfectants, hardwood lumber, paper, machinery, etc.

Its organization is informal. Membership is open to any association, firm, or individual interested in furthering the objects of the Council, and its funds are raised not by dues, but by the voluntary contributions of members. Headquarters are maintained at 19 Park Place, New York, where literature and membership applications may be obtained.

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The work of the Council, administered by an Executive Board of seven, is to crystallize the best sentiment of American business, to inform business men and the public on questions of business ethics and to stimulate and direct efforts tending to the elimination of unfair and dishonest dealings. In the main, its work is being done indirectly through the direct efforts of the organizations affiliated with it. The Commercial Standards Council has set before it, as its first task, the elimination of commercial bribery, and to this end is conducting an educational campaign and working to secure the passage of federal legislation.

COMMERCIAL BRIBERY

The secret giving of commissions, money and other things of value to employes of customers for the purpose of influencing their buying powers, is an evil more widespread than is acknowledged. It is a peculiarly insidious and dangerous tendency since it blinds a man of character to his sincere, good convictions and forces him to yield to competitive pressure in the belief that to resist would be to court disaster. Commercial bribery, if allowed to proceed unchecked, will destroy legitimate competition, for it easily defeats honest advertising or efficient salesmanship and always frustrates efficient purchasing on the basis of quality and value. It affects vitally, therefore, both sellers and buyers, and is of direct concern to advertisers, salesmen, and purchasing agents; manufacturers, jobbers, and retailers. It adds tremendously to the cost of distributing all goods, and this unnecessary selling expense is naturally passed on to be paid ultimately by the American public.

Unfortunately, the evil is spreading. From its very nature, if it is not checked, it will honeycomb all American business, because the most sincere and honest seller of goods is powerless, no matter what the quality or price of his product may be, to sell to a buyer whose purchases are controlled by graft. It takes many forms; not only the direct payment of a cash bribe, but special rebates, double invoices, coupons redeemable in goods, elaborate presents, extra commissions for quantity orders or quantity sales. It is found most commonly in connection with the sale of basic commodities used in manufacturing and in foodstuffs; but it is reaching throughout the manufacturing industries and even into the retail trades. Some industries, notably the paint and varnish manufacturers and the shipping interests, have had the high moral courage to admit the evil, but many industries, where it is common, do not acknowledge the fault.

PROPOSED FEDERAL LEGISLATION

The work of the Federal Trade Commission, the passage of various state laws against commercial bribery, the cases which have come into state courts under these acts, have all called attention to the spreading evil. Publicity is the only weapon of the Federal Trade Commission, and the state laws, since American business has largely wiped out state boundaries, are enforceable only in a single commonwealth. Neither can adequately cope with the national situation. On January 27, 1922, a federal bill was reported in the House of Representatives, by the direction of the House Committee on the Judiciary, to eliminate commercial bribery. This proposed bill is a model based on the experience of state laws and the laws of Great Britain and her colonies. It contains several significant features, without which no commercial bribery legislation can be effective:

1. Its scope covers not only direct bribe giving, but the falsification of

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documents and the solicitation of bribes.

2. It provides that "trade custom" shall not be admissible or constitute a defense.

3. It provides immunity under the law to the person who shall first report the fact, under oath, to a federal district attorney. Thus it breaks up the conspiracy of silence between bribe giver and bribe taker that other commercial bribery laws enforce on both parties, and makes the law, through fear of exposure, a preventative measure.

4. It provides for a fine or imprisonment for proven breaches of the act.

Aroused Business Sentiment

Excellent and practical as are the provisions of this proposed federal law, the Commercial Standards Council appreciates fully that American business must clean its own house. The law is a broom for this purpose, but the broom must be wielded by the force of public opinion. The Council is, therefore, collecting facts and figures about commercial bribery. It is showing American business men the commercial shortsightedness and the dishonesty of the practice. It is rousing the better business sentiment of the country.

American business today faces a hard task. Economic readjustment has brought tremendous competition. In many industries there must be great curtailment of production unless export trade is developed, and this must be developed in spite of a war-won, undeserved reputation for sharp dealing. American business is freer from dishonesty and malpractice than most national commerce. An American business man, A. T. Stewart, gave to the world a fixed price in retail stores, abolishing haggling barter and discouraging completely the age old proverb: "Let the buyer beware." Known prices are the rule—not the exception—in most branches of American trade. American business has abolished the giving of secret rebates against transportation charges. American business has established advertising and salesmanship upon an honest basis of efficiency not known elsewhere in the world. Through the Commercial Standards Council, the right consciousness for fair dealing, inherent in the average American business man, has the opportunity for expression and for organized effort to establish higher business ethics.

A Simple Code of Business Ethics

By Edward A. Filene

President, William Filene's Sons Company, Boston, Massachusetts

GOOD will is one of the most important assets of any business. It is dependent basically on the confidence of the public. Public confidence, in turn, depends upon the real service to the community that the business performs.

Because of the recognition of this fact, many sets of "business principles," often unwritten, have grown up. There has developed, also, a code of business ethics that, though unformulated, has perhaps obtained somewhat general recognition. There seems to be need of a simple written code. I propose the following:

1. A business, in order to have the right to succeed, must be of real service to the community.

2. Real service in business consists

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in making or selling merchandise of reliable quality for the lowest practically possible price, provided that merchandise is made and sold under just conditions.

This is short and simple. At first glance it may appear insufficient. Yet a closer study will show that it covers the whole field of business ethics. Let me try to indicate a few of the possible bearings of this statement of principles and draw upon the experience of a lifetime to show why it is my firm conviction that it is not only all-sufficient from an ethical standpoint, but is also the very best basis upon which the greatest just success in business can be attained. It covers all the degrees: to get on (positive); to get honor (comparative); to get honest (superlative).

In the first place, I say that one has not gained the right to success until he has made his business of real service to the community. Just because one has organized a company, built a factory or opened a store is no reason why the community owes him a living. He went into business voluntarily. He must justify success by doing something which merits compensation.

This would seem self-evident, and yet it is true that a great deal of business is done with no real comprehension of this axiomatic truth. If I take money from you without return service, by force or threat, I am legally a thief and a robber and can be arrested and put in prison. Likewise, if I take from you by fraud or false pretense, I can be dealt with legally. But under the common practice of today I can safely take from you, in return for merchandise, all that I can induce you to pay.

In reality, the difference between the last case and the first is not fundamental, the chief difference being that the last is done under the shield of custom. Ethically, unless the manufacturer and the merchant give an adequate return, unless they render a real service, they have no more right to a reward than has the robber or the cheat.

"REAL SERVICE TO THE COMMUNITY"

At the first reading, the truth of the first part of the code, even though acceptable, may not seem to cover enough of the field. This will depend on the definitions given to the terms in the code. Let us examine the definition of service in the second sentence of the code. What constitutes "real service to the community?" Clearly it is not offering merchandise for sale at the greatest price which we believe can be obtained from the public. The work of the manufacturer consists in making goods which to his expert knowledge are best adapted for the particular uses for which people want them. The work of the merchant consists in obtaining merchandise in wholesale quantities and selling it in retail quantities at a just price.

The merchant who buys a pair of shoes and sells them for more than a fair advance over cost, performs no adequate service to the community and is ethically no more entitled to a profit than is the man who steals an automobile and sells it to some unsuspecting purchaser, or the man who makes adulterated goods and sells them for genuine. We would refuse to pay the bill of the physician, the carpenter or the man who shovels snow off the sidewalk, if he did not perform a service somewhere nearly equal to his charge. Should not the same demand for adequate service be made on the manufacturer, the merchant and the banker as on other servants of the community? But we pay the charges of a system of merchandising that, because of excessive expense in doing business and the charging of profit on the basis of such expense, adds, on the average, nearly

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or quite one hundred per cent to the production cost of the goods.

If one makes merchandising too expensive, if he exacts a profit greater than a just compensation for his work, then he ceases to serve the community. In so far as he makes profits beyond the value of the work performed, he becomes a parasite. The manufacturer or merchant who does not reduce business costs and profits to the lowest practicable figure, and so enable the community to obtain goods for as low a price as possible, is not serving the community to the best of his ability and consequently is not entitled to large rewards. It is his duty to sell his goods or merchandise at the lowest practicable price, including the lowest safe profit. His total profit must increase, not through large margins on few transactions, but through the number of people whom he serves and the number of times he serves them.

"Lowest Practicable Price"

But this is still not enough. Our code should furnish us something with which to measure this lowest practicable price. A price that is the "lowest practicable" in one place may not be so in another, and the lowest practicable price one year will probably not be the lowest practicable another year. Civilization started when a savage horde discovered that some one of the group could make sharper arrow heads than the others and gave him the task of making arrow heads for all the rest, promising, in return, to provide him with the necessaries of life. From then until now we have gone on progressively increasing the specialization of individuals and with every step of specialization and standardization we have reduced the total amount of work that humanity as a whole must do to maintain itself. Each improvement and refinement of this process makes each effort of each individual worth more, or, relatively, makes the things he needs or desires cheaper. We are blocking the march of civilization unless we can make ever cheaper and cheaper the goods we sell.

During a life-long experience in retail distribution, my views on the factors that go to make up real service, and their relative importance, have changed a number of times, but each change has brought me nearer to the conclusion that no real service can be rendered except as business makes the necessaries of life more and more accessible to the consumer, *i.e.*, makes prices cheaper and cheaper. The greatest rewards of business in the past have gone to financial leaders. In the future, success will depend not so much on finance as on the ability to lead large numbers of employes so that they will produce successfully and cheaply. The basis of such success is harmonious conditions.

It should be axiomatic that the merchandise must be of reliable quality, for a lowering of prices through the substitution of inferior merchandise is not real progress. Surely we need not dwell on this point of the creed.

"Just Conditions"

Finally, the proposed code calls for merchandise made and sold under "just conditions." If one "serves" the community at the expense of any portion of it he has not added to the sum total of the community's welfare, but has been merely the means of depriving some of its members of benefits for the sake of distributing them to others. If a merchant handles merchandise that has been made under "sweat shop conditions," under "padrone" systems or by underpaid or overworked people, he is sinning ethically as well as economically; for either he is benefiting himself, or he is letting the rest of the com-

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munity benefit, at the expense of those workers.

Equally, a manager's treatment of his employes must be just. This is not the place to enlarge on the various methods that have been developed, chiefly during the last ten years, to ensure justice and pleasant relations inside the factory or shop. Too much thought and planning cannot be given to creating good relations between employer and employe, but in the endeavor to improve these relations the fact should not be lost sight of that such work is not an end in itself but merely a very important factor among the means for attaining the true aim of business—service to the community.

THE BUSINESS MAN AND HIS EMPLOYES

I am in honor bound, as a decent citizen, to treat my employes as well as I know how. If I am to require of the city that it send my employes to my store in the morning fortified by education and health to do my work, I have assumed by that very requirement the duty of sending them out at night at least not deteriorated, and if I have any sense of honor I shall want to give good measure and try to send them out, so far as lies in my power, improved physically, financially and morally by their working hours.

Now, of course, this is a hard thing to do and, in fact, is not generally accomplished. But the failure to do it is always paid for indirectly and is more expensive and more onerous than the doing. Employes made friendly to their employers, through just treatment and good conditions, are much more likely to be useful and profit-producing employes than are those who work under bad conditions. Moreover, good relations between employers and employes leave the managers free for their proper work of planning and administering the growth and success of the business.

We have been admonished to "love our neighbors as ourselves." Our real neighbors in these days of city life are not at all the people who happen to move in next door to us; our nearest neighbors are the people with whom we spend most of our waking hours. And with whom do we employers come in more continuous contact than with our employes? When once our thoughts run along this direction we see that there are many additional reasons for recognizing our employes as our nearest neighbors.

"NEIGHBORLINESS" AND ITS IMPLICATIONS

With this consideration of my employes as my nearest neighbors and with the welfare of the business also urging me on, I soon found myself going outside of my store walls into city affairs. I was forced to associate myself with groups of other citizens who were trying to make the city a better one for my employes and myself to live in. This is justifiable; indeed, becomes essential, once the fact is recognized that our employes are our neighbors. We cannot let our neighbor pass in a rainstorm without offering at least a share of our umbrella, and when my employes came in wet from bad street car service I felt that I was only trying to be a good neighbor when I undertook to help reform that service. I therefore participated in the organization of a franchise league which for many years was influential in bettering the local service.

The same relationship in civic affairs forced me to help consolidate and reorganize the various business associations of the city. It led me to help create a City Club, where employers and employes and the friends of each could meet and learn to understand

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each other. Following this same impulse of duty to my neighbors—my employes—I finally came naturally into national and international work.

As I look back I find that each of these was, in itself, worth the time and effort it took, but, as my vision grew from these experiences, I began to see that it was all a means to the big end, to the end of real service which, for a business man, is to enable people to buy cheaper and cheaper. This insight came late with me, and I am going to dwell on it because I find that it comes late with most men.

Cheaper Prices the Way to Freedom

The world is pretty well agreed now that, after all, its greatest progress will come from the greatest freedom to all men. While definite gains may be made by autocratic control of business yet, in business as in government, our experience has shown us that democracy is the safest road, and in spite of all its weaknesses it is the dominant political creed of today. Democracy is based on freedom. Freedom is not an eagle screaming on a crag, as we were told at Fourth of July celebrations at an impressionable age. The fundamental basis of freedom is the margin men have in their income over their outgo. No man is really free if he does not have more than enough with which to purchase the necessaries of life for his wife, his children and himself.

If a pair of shoes for the baby costs a day's work and a pair for each other member of the family costs from a day and a half to two days of work, a suit of clothes or a dress costs from five to seven days' work, monthly rent costs six to ten days' work, and so on, then the man who requires the work of every available day in the month to provide food, shelter and clothing for himself and his family is not free. There was a time when it cost a considerable fraction of a day's work to procure a drink of water; today, in the cities at least, water is so cheap that in this particular item men are free.

Under a code of ethics that requires business to sell cheaper and cheaper, the necessaries of life will be more easily obtained, and gradually the so-called luxuries of life will become more and more available for less and less hours or days of work; and thus men will become freer and freer.

The results of selling goods cheaper and cheaper show in the reduction of the number of hours of a day's work. Within a generation the working hours have gone down from sixteen to eight. There are enough indications and possibilities of further reductions in sight to make it not impossible that in time five hours' work a day will be sufficient to provide a living for a man with a family. This does not mean that a man will work only five hours, but rather that he need work only five hours for a mere living; many men under such circumstances will work eight or ten hours at their vocation, spurred on by the desire to put their children through college or to satisfy other desires. It will also leave the workers free to have an avocation besides—five hours for necessary work and five hours for that work to which they would give their whole time if they could afford it. Personally, I have always thought that preachers and teachers would do better work if they followed their professions only part time and some other vocation the rest of the time. This idea has been accepted in some schools.

Conclusion

I dare not follow this line of thought out into its ramifications, attractive as they appear, lest I be thought a dreamer

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instead of the shopkeeper that I am. Along this line, however, I believe lies the solution of many of the pressing economic questions of today which seem so hopelessly insoluble to many thoughtful citizens. It lies in making the products of business available at ever cheaper prices, and so permitting the great mass of the people to enjoy the full fruits of modern specialization and standardization. Mr. Ford has proved that this is not merely a philanthropic idea. The producer or the merchant who grasps the truth of this thought will in the end win a reward which is fairly his and which goes far beyond the dreams of the man who is in business for the profit alone.

One of America's foremost citizens lately said to me that in his opinion the security of the world depends in the last analysis on the way in which individuals conduct themselves. He said that the thing most needed was the will for service to the community, to the state, to the nation and to the world. Illustrating this point, he mentioned examples from his own experience showing that the progress of the world was retarded by selfishness, of which there was no better measure than the unnecessarily high prices charged for goods.

From the so-called "practical standpoint," also, I want to call attention to the fact that in these years of intense competition people are scanning prices as never before and buyers are going where they can buy the cheapest. Firms which cannot save their wastes of labor and material and meet this competition by selling cheaper and cheaper, will be forced out of business. Those that succeed will succeed on a bigger scale than ever before. They will sell greater and greater quantities with less and less expense and margin of profit on each item.

Mr. Ford has done this in his production. He has demonstrated in fact, and not merely in word, what the application of this idea does, in the case of an article which was a luxury when he took hold of it but became a necessity as he made it cheaper and cheaper. What is applicable to automobiles is applicable to any article demanded by the mass of the people.

So I say:

1. A business, in order to have the right to succeed, must be of real service to the community.

2. Real service in business consists in making or selling merchandise of reliable quality for the lowest practically possible price, provided that merchandise is made and sold under just conditions.

Campaign of the International Association of Rotary Clubs for the Writing of Codes of Standards of Practice for Each Business and Profession

By GUY GUNDAKER

Philadelphia, Pennsylvania, Chairman, Committee on Business Methods, International Association of Rotary Clubs

A ROTARY CLUB consists of men selected from each distinct business or profession, and is organized to accomplish:

First: The betterment of the individual member.

Second: The betterment of the member's business, both in a practical way and in an ideal way.

Third: The betterment of the member's craft or profession as a whole.

Fourth: The betterment of the mem-

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ber's home, his town, state and country, and of society as a whole.

The Rotary Club of Chicago, Club Number One, was organized on February 23, 1905, by Paul P. Harris, a lawyer, and three Chicago business men. At the first meeting of the club, it was made a fundamental of membership that only one man would be selected from each business or professional calling. "Rotary" was chosen as the name of the new club because the members met in rotation at their various places of business.

From a nucleus of nineteen members in 1905, Rotary has grown to eighty thousand, with clubs in more than a thousand cities, embracing twenty-five countries of the world. It is an odd coincidence that, concurrent with the growth of Rotary, there has been a constantly increasing wave of public sentiment among business men, demanding a more exacting and more sensitive business conscience. Along with the development of this quickened business conscience men in various crafts began to feel the necessity for codes of standards of correct practice.

While it is apparent that the statement of standards of practice is the special province of national, provincial or state organizations of the various businesses or professions, experience has shown that these bodies are slow to act on such matters. In considering the writing of codes of standards of practice, one must remember that business men as a rule, through the very practical way in which business is conducted, are not abstract thinkers. Few business men have ever essayed to abstract the principles of correct human relations from the many concrete examples within their own experience and arrange them for the guidance of their fellows in the crafts; nor do they constantly examine their organizations to observe whether trade customs of many years' standing have the warranty of being good business practice. The larger the business, and the greater the number of departments and employes, the more difficult it is to be absolutely certain that the business methods practised are above criticism. Many business men whose character and integrity are beyond reproach and who endeavor to conduct their business with regard to high standards, when inspired to careful self-examination of their current practices, pale when brought face to face with conditions in their establishments. They discover practices of the most reprehensible type, practices inherent in the usages and customs of the craft.

Codes of ethics have arisen in various ages, reflecting the ideas of scholars and philosophers. Most of these are couched in high-sounding phrases, calling men to higher ideals and higher business standards. Many of them are platitudes; many are so indefinite and general that they have no practical significance. It is not possible to practise undefined business ideals, or to strive to actualize glittering generalities. Therefore, the pressing need today is a plain statement of business rules of conduct which shall clearly define what one should do and what one should not do.

As Rotary is a cross section of the craft and professional world, and as each Rotarian has placed upon him the responsibility for doing something for the betterment of his craft, particularly stressing higher business standards, the International Association of Rotary Clubs has inaugurated a campaign for an intensive drive on the writing of codes of standards of correct practice in all crafts corresponding with the businesses or professions represented in Rotary. In organizing this campaign, Rotary made it quite clear that it was not presuming to advise the

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crafts as to their duty in regard to codes, but it did, however, insist that those Rotarians who were members of the craft should become active craftsmen, coöperating with their fellow-craftsmen in seeking the statement of standards of correct practice.

It has been noted that the time is appropriate for this codifying of standards of practice. It is doubly appropriate when there is a proximate transition from lean business to a period of great prosperity. It is far more necessary to create and instill inspiration for high business standards in prosperous times than in poor times. When there is little business and strong competition, business men feel the necessity of strict attention to details, high-class service and zealous regard for the highest ideals of business methods. On the other hand, when the sales-manager's desk is overloaded with orders, and people are clamoring for the products of his establishment, there is a tendency to laxness in the appreciation of these selfsame business virtues. Delivery of goods when convenient, substitutions, loose interpretation of specifications, sharp practices, are the concurrent results of waves of prosperity.

As an illustration of this tendency, you will recall that during the recent World War ethical business dealings were particularly noticeable by their absence. When these untoward conditions develop, craft organizations must step in and, by a carefully prepared educational campaign, seek to have their members and others avoid that which is the natural concomitant of business prosperity. Many years ago, Machiavelli said, "The end justifies the means." The Romans had an aphorism, "Let the buyer beware," and even our own Benjamin Franklin based a plea for honesty on the fact that it was "good policy." Rotary, as an institution, deprecates business practices based on such low motives and urges the necessity for higher business standards on the very elemental ground that such standards are right, and therefore binding on all business men. Rotary's part in the campaign for codes of correct practices is mainly inspirational.

In urging Rotarians to be active in inspiring all business or professional associations to prepare codes of standards of practice, the Committee on Business Methods felt that since the writing of codes was absolutely a new work for many craft associations, it was necessary to indicate the points which should be covered in the code. With this in view, each Rotary Club received the outline of a theoretical model code, so as to call the attention to all of the various relations which should be included. This statement was not haphazard, but was a deduction from a study of many codes received by the Committee prior to its campaign. It stated:

A code of correct practices should include:

(*a*) *A statement covering the personal character rules of conduct for the craftsman himself as the executive officer, if it be a corporation.*

(*b*) *Rules of conduct governing the relation of the employer with the employe (the observation of which may be the only known antidote for social unrest).*

(*c*) *Rules of conduct governing the craftsman's relations with those from whom he makes purchases.*

(*d*) *Rules of conduct governing the craftsman's relations with his fellow-craftsmen.*

(*e*) *Rules of conduct governing the craftsman's relations with professional men whose professions are interlocked with the craft; such as physicians, engineers, architects, etc.*

(*f*) *Rules of conduct respecting the*

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craftsman's relations with the public, presumably his patrons, both clients and purchasers.

The underlying principle of these rules is Service, flanked by Honesty and Truth.

(*g*) *Rules of conduct governing the making and executing of contracts, with special reference to specifications.* (*This is included as a special heading not only because of its importance, but to avoid splitting the topic in its phases, under four or five headings.*)

(*h*) *A statement of certain well-known violations of the code of correct practice with strong discouragement of such practices. In brief,—a statement of the "Don'ts" of business conduct.*

If the craft to which Rotarians belong has no written standards of practice, Rotarians should take the lead, or support other craftsmen, in urging the appointment of a committee to prepare a code of correct practices. If the craft has a code of correct practices, and it fails to include all of the relations appropriate to a model code, Rotarians should take the lead or support others in urging its revision or amplification.

Let us consider the eight suggested topics for a model business code, and see what rules of conduct should be included under each heading. As a general proposition, "the earmarks of a worthwhile code of ethics are its definiteness and conciseness in statements. Rules of conduct must be very specific and plain spoken, and should completely cover all phases of business relations."

A

A statement covering the personal character rules of conduct for the craftsman himself or the executive officer, if it be a corporation.

The rules of conduct under this topic should present the personal and business qualifications of the craftsman who engages in a given business or profession. The Oregon Code of Ethics for Journalism, approved January 14, 1921, states among the personal qualifications: sincerity, truth, care, competency, thoroughness, justice, mercy, kindliness, moderation, and conservatism. Each qualification is taken up in detail in the code.

Business qualifications mentioned in many codes include: honor, integrity, business morality, credit standing, and knowledge of the details connected with the conduct of the business or profession.

B

Rules of conduct governing the relation of the employer with the employe (the observation of which may be the only known antidote for social unrest).

The standards of practice, under this topic, should be based on a spirit of fairness and coöperation, through friendship. Among the standards stated should be those covering: employment, wages, permanency of occupation, working conditions, training, opportunities for advancement, recreational facilities, disputes, assimilation of new employes, discharge from service, etc.

This particular topic is not well covered by any code received by the Committee on Business Methods. In one of the proposed codes, there is a statement which might be taken as typical of the rules covered under this topic: "Employes should be paid wages consistent with living conditions and the service rendered—a fair day's wage for a fair day's work. Employers should not permit the unusual employe to give more than a fair day's labor for the pay he receives." In order that rules of conduct might be suggested covering this portion of the code, an advertisement was inserted in the *Rotarian*, the monthly publication of Rotary, asking all readers who had established friendly,

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intimate and cordial relations with their employes, to write an article under the title, "How I Set My Own House in Order." It was believed that from such a symposium, many just and equitable standards of practice might be deduced. Many articles covering this point are now being studied by the Committee, to see if any general principles can be abstracted for the guidance of business generally.

C

Rules of conduct governing the craftsman's relations with those from whom he makes purchases.

Rules of conduct under this topic should include treatment of seller (audience, interviews, truthful statement of facts, etc.); purchasing methods; conditions of purchase (offer and tender); containers, where goods are f. o. b., etc.; whether the order is a brand order or an order based on set qualities; quantity shipments and prices.

The proposed code of the Restaurant Association will illustrate the types of rules of conduct for this section:

Courtesy should be given all salesmen or representatives inquiring for business. It is thoroughly good conduct to decline to see salesmen who desire to present subjects of no interest to the purchaser.

The time of salesmen should not be heedlessly wasted in having and completing interviews.

Truth and honesty should be observed in all interviews. No misleading statements should be made to secure lower prices, nor should lower prices of competitive firms be shown to others.

The seller who offers a lower price for equal quantity and quality should get the business; it should not be given to his competitor at the same figure.

It is thoroughly ethical to decline to accept goods delayed in delivery beyond the time specified, provided that acceptance would cause loss to the purchaser. It is unethical to decline goods on delayed delivery to secure price revision, if no loss has resulted from such delay.

The terms of payment governing the purchase and the place of free delivery should be fixed at the time the purchase is made, and carried out to the letter. Discounts for cash can only be taken if payment is made within the time limit specified. Etc., etc.

Note how plain-stated the code is. No indefiniteness, no frills, just a business man's writing down of his standards expressed in "Do's and Don'ts."

D

Rules of conduct governing the craftsman's relations with his fellow craftsmen.

The standards of practice under this topic are based on the principle that fellow craftsmen should work together for the benefit of each and all.

As illustrative rules, note the following:

From the Pharmacists' Code:

He should not in any way discredit the standing of other pharmacists in the minds of either physicians or laymen. He should not obtain or use private formulas of another, nor should he imitate or use another's preparations, labels or special forms of advertising. He should not fill orders or prescriptions which come to him by mistake.

From the Code of the National Association of Ice Cream Manufacturers:

Making false or disparaging statements, either written or oral, or circulating harmful rumors respecting a competitor's product, selling price, business, financial or personal standing, is an unfair practice.

Simulating in one's own product the trademark, trade name, cartons, slogans, advertising matter or appearance of the competitor's products is an unfair practice.

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As a limiting standard of practice on the relation between fellow craftsmen, the Associated General Contractors of America state:

It is improper practice to engage in or countenance any combination whereby prices are fixed or the market controlled in favor of any particular interest or against the interests of the public.

E

Rules of conduct governing the craftsman's relations with professional men whose professions are interlocked with the craft; such as physicians, engineers, architects, etc.

The interlocking relations of businesses with professions require a statement which is generally quite technical in character. The Pharmacists' Code prescribes that the pharmacist should not assume any functions of the associated profession (medical), except in cases of emergency. It stresses careful and faithful preparation of the physicians' prescription and obedience to his orders relative to refilling or supplying copies of prescriptions. Whenever there is doubt as to the physician's orders, verifying information should be secured to avoid mistakes. Similar relations exist between the architect and the builder, the civil engineer and the road constructor. Rules of conduct under this topic should be included in professional codes, so that the reciprocal relation of the professional craftsman with the business craftsman will be covered.

F

Rules of conduct respecting the craftsman's relations with the public in general and with those who become his patrons, both clients and purchasers.

The standards of practice governing the relations of the craftsman to the purchasing public should so direct his course that every business relation and service exemplifies honorable and straightforward dealings. This applies particularly to clients and the purchasing public. There is still another phase of the craftsman's relations to the public, treating of his conduct as affecting the general weal.

As regards the purchasing public and clients, the standards of conduct should cover fair prices, service, honest products truthfully represented, and physical equipment of the plant. The following well illustrate:

From the National Retail Monument Dealers of America's code:

To have an orderly and inviting place of business, realizing that it is not only a source of satisfaction to the owner, but compels the respect of his patrons.

From the Code of Ethics of the National Hardware Association:

Price reductions by manufacturers should be passed promptly to the retail merchant, and by him to the public.

From the proposed code of the National Restaurant Association:

Purchases of equal quantities should have equal prices.

From the Code of the National Commercial Fixtures Manufacturers' Association:

Any craftsman who authorizes an individual to solicit business and sell goods for him should see to it that the salesman is fully instructed as to the policy he should pursue on all matters covered by the Craft's code of standards of practice.

As regards the general public, standards covering the maintenance and observance of local, state and federal laws, broad principles of social service, participation in community betterment movements (civic, charitable and philanthropic), are points to be covered in the code. Such are the points illustrated in the following:

From the Titlemen's Code of Ethics:

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That every titleman should have a lively and loyal interest in all that relates to the civic welfare of his community and should join and support the local, civic and commercial bodies.

From the Code of the Wholesale Growers of the United States:

To assist in the enactment, maintenance and enforcement of uniform Pure Food Laws which in operation deal justly and equitably with the rights and interests of the consumer, retailer, jobber and manufacturer.

From the Code of the Associated General Contractors of America:

It is improper practice to engage in any movement which is obviously contrary to law or public welfare.

From the Code of the National Association of Electrical Contractors and Dealers:

Every member of this Association should be mindful of the public welfare and should participate in those movements for public betterment in which his special training and experience qualify him to act. Every member of this Association should support all public officials and others who have charge of enforcing safe regulations in the rightful performance of their duty. He should carefully comply with all the laws and regulations touching his vocation, and if any such appear to him unwise or unfair, he should endeavor to have them altered.

G

Rules of conduct governing the making and executing of contracts, with special reference to specifications. (*This is included as a special heading not only because of its importance, but to avoid splitting the topic in its phases under four or five headings.*)

In general, the rules to be written here should have as their object the regulation of contracts between all of the parties mentioned in the code: to wit, the employer and employe, buyer and seller, the craftsman and the purchasing public, to the end that all the parties to the contract are mutually benefited. The standards under this topic should clearly state correct methods of framing specifications, definitions of the terms used, and concise expression of various trade customs and usage which constitute a large part of such specifications. In both the writing of contracts and specifications, it is necessary to devise rules of conduct to eliminate much useless legal verbiage, and particularly the avoidance of the so-called "joker clause." The latter is inserted apparently as a minor provision, but ofttimes in legal value, it outweighs in importance many of the more emphasized sections of the contract.

As an illustration the following is given from the Code of the New York Building Congress:

It is unethical for the architect and engineer to cover possible oversights and errors by indefinite clauses in contract or specifications.

A noteworthy contribution to standards of practice is supplied by the American Society for Testing Materials, which presents complete standards of practice in the making of specifications for paving brick, and rules governing their interpretation and performance. Their proposed code contains the following two paragraphs, worthy of consideration:

The contract and specifications should be drawn in plain, simple language by one who has had experience both in drawing and interpreting them.

All provisions should be fair, open and understandable without concealment, without ambiguity, without hidden meanings. Nothing should be left to inference or assumption. This will be promoted by adopting standard forms, which have been tested and proven by prior use.

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H

A statement of certain well-known violations of the code of correct practices, with strong discouragement of such practices. In brief—a statement of the "Don'ts" of business conduct.

There are very few illustrations of Don'ts shown in existing or proposed codes. The "Don'ts" might be misunderstood to be the opposite rules to the "Do's" contained under all the other topics. It was not the desire or intention to have negatives developed in this way. The Don'ts were to be of a general character, or of a very broad principle. In fact, the rules to be covered could not logically be included elsewhere. The Don'ts should be ascertained by examining the three cardinal principles which have recently arisen in the business world, namely: "Let the buyer beware," "Treat the keen and confiding buyer alike," and "Truth and service—the handmaidens of business prosperity."

The National Association of Ice Cream Manufacturers includes this paragraph in its code, under the heading, "Unfair practices of sellers":

Bribery of buyers or other employes by the seller, by the payment of percentages of the purchase price of goods bought, or with gifts of money, presents, treats and so on, to obtain business or to induce continuance of business.

From the proposed Code of Ethics for Contractors (Lancaster, Pa.), may be quoted:

That a contractor cannot honorably accept a remuneration, financial or otherwise, from more than one interested party. "No man can serve two masters."

Financial or other arrangements as part of the purchase, commonly designated as graft, shall not be made. As regards the "Don'ts" covering the elimination of the corrupt and growing practice of commercial bribery, fifteen large national associations have formed commercial standards of practice. They propose to devote a vigorous attention to this topic and support national legislation for the suppression of this form of business graft. The secret giving of commissions, money, or other things of value to employes of customers, for the purpose of influencing their buying powers, is a dangerous evil more wide-spread than is acknowledged and one which is unquestionably growing.

During the month of March an intensive study was conducted by Rotary into each one of the eight suggested topics for a model code. Twenty-five district conferences were held throughout the Rotary world. Each conference was asked to discuss a single topic, in much detail. The results of this discussion will be passed to a committee for standardization and generalizing. The campaign, furthermore, was carried through the month of April in the Rotary Clubs by having Rotarians present the need for codes of standards of practice; the advantages which come to a craft through the adoption of such a code; brief experience talks by members who have been instrumental in having codes written or revised by their crafts; and talks by Rotarians before the clubs and their craft associations on the relations of employers and employes.

As regards the results of the campaign, to this point, we may summarize as follows:

1. Many men who were not members of their craft association realizing for the first time, the vital importance of such an association, in establishing higher business standards, have joined their craft associations. One national association secretary states that his association has almost doubled its membership.

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2. There are over one hundred committees at work drafting proposed codes of standards of practice. Hart Seeley, one of the district governors of Rotary, is chairman of a committee framing a code for the Glove Manufacturers' Association. The other Rotarians who are chairmen of national committees are too numerous to mention. One national secretary writes, "My office has been swamped with letters asking for our code of standards of correct practice. If the Rotary Committee will call off its Rotarians, we will immediately set about to write a code." Still another association writes, "It took us five years to frame our present code of standards of practice, which was made up mainly through compromises of men who did not wish the standards to be too exacting. Now, Rotarians urge us to go to the limit in making a stringent code. They are so insistent our President has appointed a re-drafting committee."

3. Many associations have had so many requests for their present code so that their membership might study it and ascertain if it was worthy, that they have been compelled to get out an entirely new edition to supply the requests. This feature of the campaign, in interesting many who heretofore had no knowledge of their craft code or no knowledge of the business standards sought, will accomplish great good for the general business world.

Rotary appreciates the opportunity of presenting this campaign to the American Academy of Political and Social Science, and trusts that its members who are more skilled in matters of this sort, will aid the businessman wherever opportunity offers.

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China, Our Chief Far East Problem

By W. W. Willoughby, Ph.D.
Professor of Political Science, Johns Hopkins University

WE all know that the Conference at Washington[1] was called primarily to reduce the building of armaments, but that our President thought it also necessary, in that connection, to bring about, if possible, an adjustment of the political conditions in the Far East which, if not corrected, might lead to war in the future. Therefore he invited not simply the first five powers that were to participate in the Arms Conference, but the four additional powers, that had political or economic interests in the Pacific and Far East.

I wish to say a word or two as to the political situation in the Far East. The political equation there is one of three terms: First, there is China with its vast stretches of territory, and its great population, numbering a quarter of the human race; second, there is Japan with its eager, aggressive, ambitious and increasing people; and third, there are the interests of the Western powers.

China under Foreign Contact

First, of China. The Chinese people, as has often been said, have an authentic history of four thousand years. They are one of the greatest peoples that have lived on the globe. They have created for themselves a civilization that has been the admiration of all those who have studied it. They built up for themselves a culture, an art, a social life and a polity that was admirably adapted to their dominant agricultural needs, and which harmonized with their social life, a system of government which proved defective only when brought into contact with the Western industrial life. Thus it has been said that China maintained herself unaided for four thousand years, but began to fall when she began to get aid from the Western World. There is much truth in this for, from the time she was brought into contact with the West and forced to accept Western ideas and to meet the military competition of the Western nations, her own system of political rule proved weak and defective. That system relied more on reason than on force. It had not the appliances of Western mechanical life. Thus the Western nations were able, one after another, to tie bonds about China until she became almost helpless. Thus it has come about that nearly all the foreigners in China live under their own laws and are responsible to their own officials.

In many of the so-called treaty ports foreigners have municipal areas termed concessions or settlements where they have their own local governments, practically free from Chinese administrative control. What is perhaps most serious of all, the nations have deprived China of the control of her own customs revenues. They have made it impossible for China to levy more than a five per cent tax on any of the commodities imported into or exported from China. She must get the unanimous consent of the treaty-powers before she can increase her tariff. The treaty allows her five per cent, but she has been able to collect, because of undervaluation of commodi-

[1] Conference on Limitation of Armament, Washington, November 11, 1921. This paper was written before the Conference had completed its work.—Editor.

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ties, only three to three and a half per cent ad valorem.

Not content with rights wrung from China by means of treaties which she has felt herself constrained to sign, some of the powers have exercised rights and powers in China without even the semblance of treaty permission. They have stationed troops at various points in China. Japan now has 1,200 to 1,500 men at Hankow, in the center of China, one thousand miles up the river. She has had them there for ten years. There are many other foreigners there, but none of the other nations have thought it necessary to protect their nationals by stationing troops. Some of the nations have established wireless stations without treaty right. In Peking I could put a letter in a foreign post office and send it anywhere. All those post offices are there without any treaty right.

THE NEW REPUBLIC

In 1911 China started upon the great experiment of a republic to replace the forty-centuries-old monarchy. The result of such a transition necessarily brought about a certain amount of discontent and a temporary weakening of authority. But a republic requires for its support the loyal, active obedience and sympathy of its own people and it is impossible for them to have that respect for a government which is treated as the Chinese government has been treated by other nations. This, the Western powers have now recognized. They now see that one of the problems of the Far East is to rehabilitate China, to aid her to establish an orderly government.

This is what the Conference at Washington is trying to do. It has made provision for getting rid of all the foreign post offices. They will be removed by the end of this year. China has got very little with reference to tariff legislation. She is allowed to levy an effective five per cent, but that is only what the treaties have allowed her, and that she will not get for some time. The question of the right which all foreigners now have to live under their own laws and be responsible only to their own officials, is also important. The Conference has provided that there shall be a committee appointed to investigate conditions in China with a view to determining how soon and by what steps this condition of affairs can be relieved, and China thus made the mistress of her own affairs. While I am speaking of foreigners, I should say there is no country in the world where foreigners are so safe, both as to life and property, as they are in China.

THE JAPANESE MENACE

Not only are China's autonomous powers limited in the manner in which I have been speaking, but her very political existence is threatened. Russia was certainly a threatening menace to her at one time. But, since 1905, the menace has been from Japan—a small but aggressive power, militaristic, bureaucratic and imperialistic. You all know the history of Japan and Korea—how Japan took Korea under her protection and in five years annexed her. I do not need to speak to you of how she took the place of Russia in Manchuria; how, through the control of the South Manchurian Railroad, she has claimed the right to maintain police, to maintain troops, who exercise political jurisdiction, and in other ways to exercise a dominating influence in the great Manchurian provinces with twenty millions of population.

I do not need to mention to you the now famous or infamous "Twenty-one Demands" which Japan put forward

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in 1915. The chief question which is still before the Conference is: "What relief is China to get from those demands and what assurance are the other powers to get?" because, after all, the most important political element in the Far East is this penetration, this military and political penetration of Japan into eastern Asia. Japan makes claim to a sort of preferential right in those regions. She calls it "special interests," giving to this term a definition different from that which our government has given it. So long as Japan claims this special, indefinite, vague right she can go into Asia to take what she needs; and this is, to my mind, the point that is most likely to provoke future trouble in the Far East.

It seems to me that the Conference will fall far short of the goal which it has been striving to reach unless it can clear up this situation. The nations should say to Japan: "Do you claim special rights in those countries, and what are those rights? What, specifically, is it you claim to have by special right in Eastern Asia?"

THE QUESTION OF SHANTUNG

Finally, there is the question of Shantung. When Japan declared war against Germany, she claimed the right to attack the German-leased area of Kiaochow. China was then a neutral, but her government designated a region around and outside of the leased area, and said to the Japanese, "You can conduct military operations in that region." But instead of that Japan landed troops far away from that region and immediately took possession of the railroad running 265 miles from Tsintao to Tsinanfu, the capital of the province. This was done, it will be remembered, in the territory of a friendly power. No military necessity for this action existed, but Japan has been in possession of the railway ever since.

Naturally, the Chinese have looked on this as a mere military occupation which they have not been able to prevent, but which has given to the Japanese no equitable or legal title. Thus it was that the Chinese said they could not enter into direct negotiations with the Japanese in regard to that situation. Therefore, in Washington, Mr. Hughes and Mr. Balfour offered their good offices to the Japanese delegation and to the Chinese delegation to cause them to come together in informal conversations, which would not raise the question of legal rights, but which would approach the situation as a *de facto* one, and see if some agreement could not be reached. There have now been some twenty-five of these discussions. They have disposed of a good many matters. There were a great many questions as to what should be done with the various kinds of public properties, and the mode of valuing them.

When it came to the question of railroads, Japan declared, "Yes, we will give you back the railroad if you will pay us for it," and China said she would pay the entire assessed value of the railroad with all its appurtenant properties. "How will you pay it?" asked Japan, and China answered, "We will pay it in cash, in a lump cash sum." But Japan said she did not want that. Then the Chinese offered to pay it by deferred payments, running over a period of years. That, again, was not satisfactory. It finally appeared that what Japan particularly wanted was to keep control of the operation of the railroad for a number of years. That is, she wanted the chief engineer, the chief accountant and the traffic manager to be Japanese. What the outcome is to be, no one can say.

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HOPE IN THE WASHINGTON CONFERENCE

It was not by accident or courtesy that China was asked to open the work of the Conference dealing with the Far East. It was because in her future is bound up the political future of the Far East; and therefore, unless the Washington Conference can take off enough of the bonds from China in accordance with the second of the so-called Root resolutions, to give her an opportunity to develop for herself stable institutions; unless they can take the troops out of China; unless they can give her some greater degree of security and of financial autonomy, and thus enable her to become a strong, prosperous, central state, the Conference will certainly fail to achieve its purpose. If China is given that opportunity, I feel confident that she can, by her own effort, bring about this desired condition.

China and Her Reconstruction[1]

By ADMIRAL TSAI

Member of the Chinese Delegation to the Conference on Limitation of Armament, Washington, 1921

DR. SZE has given you a dinner, and Dr. Rowe evidently has asked me to give you a pinch of salt or a drop of sugar. You have just been told by Dr. Sze about conditions in China and I wish to speak a few words about the difficulties of the North and the South in China. But I do not wish you to understand it in the sense of 1861 and 1865. We have a North and South problem, but it is a little different. The difference between the North and the South in China is a difference between politicians in regard to the constitution; and whenever the two parties have not agreed, that party which was not the recognized government has bolted down to Canton. Now suppose Mr. Wilson had been defeated in the election, and that he would go to Florida and say, "I left Washington, licked. I will do a little on my own in Florida."

If you sent five hundred dollars from Pekin to Canton, through the post office or any other way, you would get it. If anybody in Canton sent to me in Pekin a basket of bananas, I would get it in Pekin. Out of the ninety-five members of the delegation that came with me, seventy-four were from the southern provinces yet they were all commissioned by the northern or recognized government. The so-called North and South question is simply that one government functions in the North and the other so-called government functions in the South; and it has nothing to do with the people. The people are entirely united. Although we have been fighting for several years, you never heard of the northern portion of the Chinese fleet's going to the south to blockade any southern ports. Nor have you heard of the southern squadron's coming to the northern waters to besiege. You have never heard a gun fired. It is all on ink and paper. Ladies and gentlemen, I do acknowledge that we are having a civil war, but a very "civil" war.

[1] This paper was written before the Disarmament Conference had completed its work. C. L. K.

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Reconstruction, not Destruction

You are very much interested in China, and sometimes in your anxiety for us, you say, "Why don't you hurry up and hustle the way we do." You are giants of a different type and we have to run when you are walking. You think we are not progressing, but we are. In 1881 when I returned to China from the United States where I had been a student, they thought I was a Bolshevik; but now I am a conservative and am relegated to the background. And I think they would have scrapped me if it had not been for the fact that I have been in the United States and that to some extent I understand the Americans. That is why I am here to represent China at the Washington Conference.

You want us to go ahead, but when we are scrapping,—I am going to use that word all the time—when we are scrapping institutions of several thousand years, in the pulling down you must expect timbers flying and bricks falling and dust raising. And we hope that you will have patience with us. This is reconstruction and not destruction.

Some people are very interested and claim the virtue of protecting us—not in the way Americans are trying to protect us, but in the way the wolf is protecting the lamb or the fox is protecting the goose. I will not say who. When I am in a dilemma, I always speak in parables. So, he that hath ears, let him hear.

You say, "Oh, China is in an awful condition. She cannot rule herself." Yes, I have noticed that. We have been ruling ourselves for four thousand years without outside help and it is just because we have been having foreign intercourse for about a century that we are about to fall. It is pitiable to think of it! Without support, we have stood for four thousand years—with support, we are falling.

The most dangerous element now are the militarists, but they are being gradually eliminated. Public opinion is intensely strong and since the time of 1894 until now, there has been a gradual working-up of public opinion in China. Indeed, in the last ten years the public opinion demonstrated by students has been overwhelmingly strong, and men like Chang Hsun Tim, like Lung Kwang, Lu Yung-ting and many others (as I name them to you they seem meaningless, but they were governor-generals of the Yangtse province and the Kwang-tung and Kwang Hsi provinces), all have been eliminated by this public opinion of 400,000,000, and have withered like autumn leaves. Thus, in that way, public opinion, by passive resistance, brings down the militarists.

America's Friendship—Past and Present

The reason that you have such a great interest in China, and that China has such a deep friendship for you has a historical foundation. I do not tell you that in platitude but, if you will let me, I will sum up that foundation in a few names. Some of of them are Mr. Burlingame, down to Mr. Cushing, on to Mr. Congor, to Colonel Dearby, down to Mr. Rockhill, to Mr. Calhoun, to Mr. Crane and now to Dr. Schurman—these, every one of them, have left without instructions from your State Department as to what to do or what exact policy to adopt, but, invariably, whether they have been men from the north or from the south, from the east or from the west, whether they have been Democrats or Republicans, they have had three main ideas to guide and direct their policy in China, and these are: sympathy, friendship and helpfulness,

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Such sentiments have characterized the work that has been done by your government and through your diplomatic agents in China.

The Chinese students in the United States are living evidences that the wise use of the Chinese indemnity you returned is linking year by year a closer tie between the two nations. Chinese students and Chinese girls come in here and associate with your young men and with your young ladies and knit together a friendship that cannot be separated even by death; because when they grow up and they have children, those traditions will be carried on from generation to generation and for thousands of years to come.

Then, during the Boxer Movement, your General Chaffee in command there remonstrated with the Germans for looting our astronomical instruments and, by a mysterious fate, these instruments were returned to Pekin and are set up now on the walls in the original places from which they were taken. If you happen to be in China and if I should know, ask me to be your guide and I shall be glad to show you these ancient things.

Again, you invited us to the Disarmament Conference in this country. No other nation would have invited a weak power, in a military sense, like China to come; but you have brought her to restore to her what you think is her due. And you have got the powers cornered. You have asked the members who come here, "To whom does this belong?" and the owner says, "To me"; and again you ask, "To whom does this belong?" and the owner says, "To me"; and in some things the owner has been willing to pay. But, ladies and gentlemen, imagine the other party saying, "We want to be friends of China. We want to get a fifty per cent share of the interest. You can't pay it back." That is a beautiful theory of friendship, which I cannot understand.

Years ago your immortal Lincoln adjusted the color line between the white and the black; and now your enlightened government is adjusting the color line between the yellow and the yellow.

The Future of Chinese Democracy

By DR. SAO-KE ALFRED SZE
Chinese Minister to the United States

TO some Western observers the Republic of China seems to be still tossed in an unceasing storm. To them, the temporary presence of the militarists and the small differences between Canton and the central government appear to be symptoms of some greater evil that is to come. Some doubt whether the Chinese people have the real capacity for self-government and whether China is, after all, qualified to enjoy the blessings of democracy; others attribute the present seeming unrest and turmoil to the corruption of officialdom and advocate foreign supervision as a panacea; a few would try to indoctrinate our countrymen with Bolshevist ideas and point to them as a remedy; still others think that the trouble with China is the lack of a strong central government and that all will be well if this is established; and still others maintain that what China needs at present is

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not a strong central government but a federal state. A veritable Babel of confusion! Of course there are many who have faith and hope in the ultimate triumph of democracy in China and who believe that the forces for good will eventually gain ascendancy. But even with them faith seems to take the place of intellectual conviction and hope appears to lack intellectual assurance. In other words, they do not seem to know that the present unrest and disturbance is only apparent, not real and fundamental; that the pains which China is experiencing are pains of growth, not pains of senility, and that what little evil she has at present is essential to the greater good she will achieve in the near future. There is, in fact, no ground for discouragement and pessimism, and we can rest assured that China will be a real champion of democracy.

As I see it, the troubles China has been having for the last few years are all due to China's attempt to adjust her social democracy to the political democracy of the West. This adjustment is a gigantic experiment and it is small wonder that friction and discord have at times occurred. For social democracy and political democracy differ widely, both in origin and in moral principle. Social democracy first comes into existence in communities where there is general competence and no marked personal eminence; where there is no aristocracy and no caste, but, instead, an intelligent readiness to lend a hand and to do in unison whatever is to be done, by a kind of conspiring instinct and contagious sympathy. In such a community democracy is a spirit, a mental attitude, a disposition of the mind, and the machinery of government is not present, or, if present, not perceived. We might consider such a community as having the most democratic government, for everything there is naturally democratic and there is no governmental machinery at all.

ATTEMPT TO ADJUST SOCIAL TO POLITICAL DEMOCRACY

Political democracy, however, comes into existence later in time. Unlike social democracy it is not natural, but artificial. It arises by a gradual broadening of aristocratic privileges, through rebellion against abuses, and in answer to restlessness on the people's part. It is necessitated by the complexity of modern civilization and the rise of different classes; it is compatible with a very complex government and an aristocratic society. It is an attempt at the harmonization of the different interests of the different parties or groups of people. Unlike social democracy, which is a general ethical ideal, looking to human equality and brotherhood, democratic government is merely a means to an end and an expedient for the better and smoother government of certain states at certain junctures. It involves no special ideals of life. It is a question of policy: namely, whether the general interest will be better served by the harmonization of special interests as is shown in Rousseau's conception of the general will. Thus political democracy is concerned more with the machinery of government and in that respect differs greatly from social democracy. Social democracy is ethical socialism, whereas political democracy is ethical individualism.

Now the Chinese democracy is a social democracy. Ever since the dawn of Chinese history, the predominating political theory and the actual practice have always involved the elimination of governmental machinery. Confucius, as well as Laotze, maintained the same position. Indeed, the absence of governmental machinery and the comparative absence of governmental in-

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terference have been testified by all the eminent writers of China so that it is unnecessary for me to multiply proofs and examples.

But social democracy is possible only in a civilization that is not complex, in a civilization that has no castes, no aristocracy. In such a civilization, complicated machinery is a burden and out of place. The spirit of love can harmonize whatever diversities and differences there may exist. Now the Chinese civilization, as a result of contact with the West, has become more complex and the interests of the people have become diversified. As yet class consciousness is not distinct and marked in China. But there is no longer that old unity of desire, that unity of aspiration, and that unity of taste. Of course, it is not necessary, nor is it wise, for China to part with her social democracy, which is too precious to be discarded, but the Chinese social democracy has got to make use of the political machinery of the West, the excellent technique of organization, so as to meet the demands of the hour. China, however, must humanize the machinery so taken over and this process of humanizing the machinery, this process of adjusting the political machinery to social democracy, of reconciling the alien form to the indigenous spirit, is a long process and a difficult one. It is not, therefore, that the Chinese people are incapable of self-government. Rather are the Chinese people not used to machinery, which to them is strange. Once the machinery is mastered, once the native spirit and the alien form are fused and well blended, there will arise a splendid example of modern democracy in Asia.

For China is determined not to be enslaved by the machinery of government, and will not rely for the final success of democracy solely upon that nice balancing and harmonizing of private conflicting interests which the utilitarian school so enthusiastically preached. On the other hand, China will try to avert the dangers of materialistic democracy—eccentricity and dull uniformity. China will try to secure in art and literature that quality of distinction which Matthew Arnold finds lacking in democratic countries. At the same time, China will try in all the spheres of human activity to secure a real standard, which is also lamentably absent in other democratic countries. China is trying to have distinction, not eccentricity; real standards, not dull uniformity. And to attain these ends China will, in conformity to a tradition, give everyone an equal chance. For people may be born equal, but they will grow unequal and the only equality subsisting will be equality of opportunity. China will thus attempt to remedy such drawbacks of democratic government as the great critics like James Bryce and James Russell Lowell have pointed out.

These statements are not vague generalities, for they are abundantly borne out by facts. Of the five presidents of the Chinese Republic, four have come from humble families and most of the men who are guiding the destiny of China are from the common people. And, as an antidote against the tendency to overmaterialization, China is making every effort to promote her higher education, as is evidenced in the establishment of the Peking Government University and the Southeastern University and other similar educational institutions. This leads me to the second point of which I wish to speak—the adjustment of new ideas to old.

ADJUSTMENT OF NEW IDEAS TO OLD

The confusion that prevails in China is, as I have said, due to China's attempt to adjust her indigenous social

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democracy to the political democracy of the West. But it is also due to China's attempt to adjust old ideas to new ideas. After her serene peace had been disturbed, she realized that something was wanting in her country and, consequently, sent out her students to study in the West. At first China thought the remedy for her weakness was military science. But gradually she realized that perhaps she could profit more by the political machinery of the West, and so her students took up the study of political science. Then their attention was shifted from political machinery and government to applied science, for the Chinese people have come to think that in that way lies salvation. But at present there are also students studying pure science and philosophy and the number is increasing. Thus the understanding of the West by the Chinese people is a very gradual process and a matter of absorbing interest. It is an approach from facts to ideas, from the part to the whole. The Chinese people have indeed followed the steps to perfection which are laid out by Plato. But this vast amount of intellectual material which has found its way into China has to be cast into the mental furnace of the four hundred million people, and the fusion of the material that is already there with this new material is no mean task and will require much time.

During the first few decades of China's contact with the West, the point on which China wanted to be enlightened was the material side of its civilization. But at the present stage of China's development, increased emphasis is being laid on the cultural side—the sciences and the philosophy of the West. The reason for this deep interest in Western philosophy and sciences is that the Chinese people want to know thoroughly what is their own. John Stuart Mill says that for the understanding of a civilization it is absolutely necessary to master several languages; and one Chinese scholar has said that he came to know more intimately of the civilization of his own country after he had made a careful study of the Western civilization. The reason is obvious, for the more we are conscious of the existence of others, the more we are conscious of ourselves; and the more we know others, the more do we know ourselves. But the invasion of these new ideas necessarily arouses, in the beginning, the sharpest conflict with the hitherto unshakable beliefs and convictions held by the Chinese people. Coupled with the spirit of Browning's Grammarian, with the insatiable thirst for knowledge which is so characteristic of scholars of the Renaissance, the Chinese are absorbing Western knowledge too fast. Hence the great friction and the seeming disorder and confusion.

However, as Bertrand Russell says, "Chinese problems are not capable of being satisfactorily settled by a mechanical imposition of order and what we consider good government. Adjustment to new ideas demands a period of chaos, and it is not for the ultimate good of China to shorten this period artificially." Professor Dewey entertains similar opinions in this regard and the judgment of both is perfectly sound. For just as a man must pass a turbulent period in his life before he can attain self-mastery and sweet calm, so must a nation pass a stormy period before it can attain poise and balance. Seeming disquiet and disorder in China is essential to her growth because good and evil are relative, and a good comes only after transcending an evil, which is itself a negation of good. An English philosopher has said: "A man draws

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nearer to virtue when he commits a sin. For sin, as the second in time of the two steps, has the advantage over innocence. In passing to sin from innocence the sinner has taken a step on the only road which can lead him to virtue, and morality has gained."

THE DEVELOPMENT OF NATIONAL UNITY

But those people who complain that China has not progressed very far are wrong. For details of China's progress I may refer them to Dr. M. T. Z. Tyau's recently published book entitled, *China Awakened*. But the most conspicuous example is the national unity which China has achieved. The transition of civilization from the family to the national state is the most marked characteristic of the last fifteen years of Chinese public life. China is not, as Russell thinks, less a political entity than a civilization, for China is not only a civilization but also a political entity, which is partly due to the introduction of the political democracy of the West. Professor Seeley, of Cambridge, used to tell his students that nationalism is the key to the civilization of the nineteenth century. He cited the twenty-five German kingdoms uniting to form the German empire, the eight principalities of Italy uniting into the kingdom of Italy, the welding together of the discordant states into the American Union, and the knitting together of the colonies and dependencies of the British Empire as the products of the national ideal operating in the history of the nineteenth century. It is this spirit of patriotism which is lifting the four hundred million of China to that exalted plane in which they are willing to lay down their lives upon the altar of their country. The united front presented by the whole people against the Japanese occupation of Shantung, the downfall of the powerful Anfu party through the agitation of merchants and students, the suppression of gambling at a loss of $14,000,000 a year to the treasury of a province and the adoption of the spoken language as the universal language throughout the country—all these are indications of a growing national spirit.

The growth of public opinion in China is another wonderful symptom of political unity. Before the establishment of the Republic the rank and file paid no attention to public affairs. Now their voice is not only heard regarding the important matters in the country but actually heeded by the government. This was seen in the clash between the Anfu and the Chi-li factions last year. It is seen in the influence exercised by the opinion of the people on the Washington Conference.[1]

But, although it is true that nationalism, as Professor Seeley says, is the key to the political history of the nineteenth century, I predict that internationalism will be the key to the political history of the twentieth century and after. Sir Robert Hart, who studied the Chinese for some forty years, believed that the Chinese potential hatred of foreigners constituted a real menace to the human race. He held that some four hundred million people, sturdily and passionately devoted to their ancient customs, might, in time, under the influence of bitter race hatred between the yellow and the white peoples, be changed from a peace-loving community into a warlike people, bent on avenging their wrongs. But the Chinese patriotism and nationalism is not the patriotism and nationalism of the Jingoists and Imperialists. It is not the pooled self-esteem of which Mr. A. Clutton-

[1] Conference on the Limitation of Armament, Washington, D. C., November 11, 1921.

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Brock speaks. There is no hatred of foreigners in China and there is with the Chinese no longer any of the racial antipathy and antagonism which is made so much of by the nationalists and the capitalists. Our patriotism is not the patriotism which manifests itself in hatred rather than in love; because false patriotism cannot declare itself for what it is and is, therefore, always negative rather than positive. Our patriotism is the patriotism which is love of something not ourselves, love of our own people and cities and our native fields, and which, being love, does not in the least insist that that which is loved is superior to other things or other people, unloved because unknown.

We know that where there is real affection there is not this rivalry or enmity; no man, because he loves his wife, makes domestically patriotic songs about her; nor does he hate or despise the wives of other men. In true love there is no self-esteem, but rather it increases the capacity for love; it makes the loving husband see the good in all women; and he would as soon boast of his own wife as a religious man would boast of his God! And true patriotism is true love. This true patriotism finds its expression in the impartial and disinterested pursuit of Western learning by the Chinese people, which is so eloquently testified to by Bertrand Russell and Professor John Dewey, the two intellectual ambassadors from Great Britain and the United States of America; it finds its expression in the great emphasis on the regeneration of the spiritual side of China's civilization, which is diametrically opposed to the exclusive devotion of Japan to her material progress and military efficiency. In short, the growth of nationalism and patriotism in China is a blessing to herself and a blessing to the world.

LEGAL REFORM IN CHINA

Another example of China's progress is the legal reform affected under the guidance of my colleague Dr. Wang, one of the intellectual leaders of China and one of the delegates to the Washington Conference. As you all know, legal reforms had been carried out to some extent in the last years of the Tsing Dynasty and the codes that were then compiled were modeled after those of Japan. But these codes did not appear to the Republican Government as compatible with the liberal ideas which had gained a strong hold in China. Thus a new commission was formed to revise those codes. The revised codes were printed in 1919 and immediately translated into English and French. While those who codified the provisional codes during the reign of the Manchu Dynasty had been educated in Japan, those who codified the new codes derived their inspiration from the European countries and profited immensely by the recent progress in law. They have borrowed much from the codes of Hungary, of Holland, of Italy, even of Egypt and of Siam, and from the codes of Austria, Switzerland and Germany. But, at the same time, they have had the wisdom not to break with the past, and, in fact, the traditions and customs of the Chinese people are respected in the provisions of the new codes. The cult of ancestral worship is reconciled to the spirit of the new codes and thus the violation of a sepulchre is punishable. Buddhism is tolerated, and parents exercise a considerable influence in the matter of aggravation or attenuation of punishments.

The completeness and excellence of the codes are such that Professor Garcon of the University of Paris, who is one of the most eminent jurists on the Continent, says of one of them:

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It seems, in truth, that, without alteration, this code can be adopted by any Occidental people and that any European country can find in this code some useful reforms which can well be introduced into its own laws.

Again, he says:

The number of provisions of the code indicates a profound knowledge, not only of the texts of recent codes, but also of the science of penal laws which the Occidental criminalists have made. It is sufficient for me to say that this code solves questions of unpunishable crimes of real or theoretical recidive. Our French code unfortunately leaves these questions unanswered.

FURTHER EVIDENCES OF PROGRESS

But progress is shown also in industry. In the year of 1911, there were only 395 industrial companies owned by Chinese but in the year of 1919, there were 994. Then the method of organization, the technique newly learned from the West, is being improved, as is shown by the existence of the Banker's Association and the Student's Association, which spread throughout the length and breadth of the country.

In education equal advancement has been made. In the year 1911, there were two million people in public schools. In 1920, there were five million. Schools have been more than doubled since then. I shall refrain from mentioning the new universities which have been established and the exhilarating intellectual thirst of the whole people which is so well described by Bertrand Russell. Nor shall I dwell on the freedom of thought which is so vividly brought to the minds of the Western people by the British philosopher.

Of course people will remind me that China still permits many militarists, whose influence, however, is rapidly diminishing. Again, their presence, though temporary, is essential to the final success of democracy. They are like the trials through which a youth has to pass before he can become hardy and attain to real manhood. Did not the same thing happen to France and to America?

Besides, it is to be remembered that besides these militarists are the good governors of different provinces whose beneficent work is well recognized by every foreigner. Such is the Governor of Shansi, Yen Hsi Shan, of whom Miss E. G. Kemp in her book, *Chinese Mettle*, says: "He has accomplished in the last ten years a remarkable change in the entire province—the province which is considerably larger than Great Britain." He has initiated so many necessary reforms which can be followed by the rest of the provinces and he has inspired so many people to great efforts that he has come to acquire the name of the "Model Governor." Another such exemplary governor is General Feng Yu Hsiang, whose good work in Shansi Province is equally remarkable.

Thus, if we take a broad view of the whole situation, the future of China is very bright and the progress she has made is considerable. For progress, it must be borne in mind, is never in a straight line. Vico compares it to a spiral which advances and recedes in turn, but which is ascending and progressing all the time. Macaulay compares progress to the tide where the individual wave seems to retreat from time to time, but the tide is nevertheless making steady advance. This is true of progress in every country and it is no less true of progress in China.

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Constitutional Government for China[1]

By DR. JOHN C. FERGUSON[2]
Adviser of the President of China

IN coming to a clearer understanding of the present difficulties of China, there is one question uppermost in the mind of Western observers. Why is there a Chinese problem? Why, having been introduced into the family of nations, has not China, like Japan, even more recently introduced, come into the same commanding position among the nations of the world? Why, in China, has the adaptation to modern life been such a slow process, while, in Japan, governmental changes have been so rapidly accomplished as to seat Japan in conference among the five great powers of the present?

The fundamental reason for this has been the fact that China is a self-contained nation, able to feed and clothe her own people, thus performing the two most essential functions of government. She developed a civilization of her own which was never influenced to any large extent by outside forces but which in its turn influenced all neighboring nations that came in contact with it. Her previous experiences with outside nations did not prepare her to appreciate the importance of the impact of the West which came upon her in full force during the nineteenth century. While this outside influence was becoming strongest China herself was suffering from the incompetence of her own government, whose incapacity brought about the devastating rebellions of the Taipings in the fifties and sixties and finally resulted in the overthrow of the Manchu Dynasty in 1911–12.

[1] This paper was written before the Disarmament Conference had completed its work. —C. L. K.

[2] Author of *Outlines of Chinese Art.*

FORMER INDIFFERENCE TO OUTSIDE RELATIONS

This failure to comprehend the importance of the new foreign relations with western nations was conspicuous in the fixing of tariff duties by the Treaty of Nanking in 1842. The volume of foreign trade at that time was of so little value in the opinion of the government that it readily agreed to a nominal rate of duty to take the place of the irregular port charges on foreign imports which hitherto had been the custom. The indifference of that time has been the cause of China's later immense losses of possible revenue as foreign trade has developed to large proportions during the intervening years down to the present. The tariff fixed at that time in contempt of foreign trade is now recognized as one of the chief injustices of China's financial condition.

Another instance of China's former indifference to the importance of outside commercial relations was afforded in 1854, when an arrangement was made at Shanghai with the local Chinese authorities for the opening of a customs house under foreign control in which customs dues should be collected by three men nominated by the consuls of Great Britain, the United States and France. Two of these remained only a short time in office, leaving one man, Mr. Lay, to perform the duties. During his absence on furlough, Robert Hart was appointed in his place and out of this simple local arrangement grew up, step by step, the present highly organized customs service under the direction of a foreign Inspector General

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with foreign commissioners in every open port. At first China did not want to be troubled with the collection of import duties from foreign ships and attached no importance to the amount collected. Her failure to appreciate the magnitude of the influences which were coming upon her resulted in her willing consent to the planting in her soil of an exotic customs service which, notwithstanding the high efficiency attained by it, remains a foreign growth which must sometime be supplanted by an indigenous one.

Japan was never a self-contained nation. She had studied her civilization in Korea and China and had always been responsive to outside influences. She recognized as soon as her gates were opened by Perry that the incoming strangers were different from any of those with whom she had come in contact in her previous history. She set herself at once to a study of their institutions and methods. Any of her own people who could contribute information to the government concerning foreigners, was honored and his statements were carefully considered. The result of this attitude of mind was that almost from the very outset Japan appreciated at its full value the importance of the new relationships which were forced upon her while at the same time she determined to adapt her own methods to meet the new circumstances.

THE LATE CONSCIOUSNESS OF FOREIGN IMPACT

It was not until the revolution of 1911–12 in China that the country as a whole came to the same kind of consciousness of the importance of relationship with outside nations to which Japan had awakened in the middle of the nineteenth century. Japan awoke early enough to organize her own system in such ways as to preserve independence and freedom of action. While China slumbered, outside influences were at work obtaining for themselves political, financial, and administrative concessions in which China mortgaged her own future. Now as the educated young men and women of China have come to realize the fetters which the indifference of their forefathers, coupled with the cupidity of outside nations, has imposed upon them, they have discovered that it is too late for them to depend alone upon their own awakened intelligence to cast these off, and at the present Conference[3] have made an appeal to the friendly nations for assistance in regaining what has been lost.

The lack of a stable, efficient government in China at the present time can be very readily explained. It is not due to an inability on the part of the Chinese people to develop orderly government for, as the Chinese Minister, Mr. Sze, has said, China has shown through her long history a remarkable talent for self-government. The fact is that since the establishment of the Republic in 1912 China has been passing through circumstances of extreme difficulty. Within two years the Great War broke out in Europe and was immediately followed by the Japanese attack through Chinese territory upon the German leasehold of Kiaochow. This attack was accompanied by military occupation of the whole length of the Shantung provincial railway and by the stationing of a Japanese garrison in the provincial capital, Tsinan. A few months later Japan presented to China the Twenty-One Demands and forced compliance under threat of the use of military force.

This was in May, 1915 and since that

[3] Conference on the Limitation of Armament, Washington, D. C., November 11, 1921.

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time the whole spirit of the people has been obsessed with a contemplation of the humiliation to which it was subjected and with the determination to regain what has been taken away. The regaining of their rights in Shantung has been believed, and rightly so, by the Chinese people to be the very basis of future national existence and without the return of Shantung any form of government upon which agreement might be reached would be futile. It has been considered that no government which would allow Shantung to be held by Japan could be worth having, and that no constitution could be adopted which would not include a redeemed Shantung. No stable self-respecting government could carry on under the same heaven with a military occupation by a foreign nation of one of China's ancient provinces, and it was idle to talk of written constitutions, parliamentary government and popular representation until the national spirit was calmed by the righting of this injustice. The Chinese people have never despaired of being able to establish for themselves a stable and efficient government; but they have believed that before this could be accomplished the iniquitous imposition forced on them in Shantung must be first removed.

CHINA TO ESTABLISH HER OWN NEW GOVERNMENT

The question is frequently asked: Can China work out her own internal problems? The best reply to this is the asking of another question: Can any single nation undertake the solution of China's internal problems? The obvious reply to this question is that each great nation at the present time has more problems of its own than it can solve with satisfaction to the people. It is plain that no single nation is in a position to undertake such a task. But would it be possible for several of the nations which have large interests in China to join together in this work? The answer to this question is the difficulty which the powers have always had in adjusting differences among themselves. Until some definite progress is made on such lines among the great nations, what practical result could be accomplished by a combination concerning the greatest problems of the world centering around China? An international commission for China would add to the existing internal disturbances a new element of dispute among the powers which would be members of such an international commission, and would open the way for combinations of intrigue between internal parties in China and the members of the commission. Any plan for the control of China by a single nation or by an international commission is, in my opinion, bound to fail. The only way in which order and government can be restored in China is to recognize that the Chinese must be allowed to undertake and carry on this work for themselves while outside nations conform to the self-denying ordinance of non-interference.

In establishing her new government China will have need of all her foreign-educated young men and women. In addition to the united effort of her own people in this direction, China should continue to receive the sympathy and encouragement of the American people in the same measure in which it was given to Japan during her years of struggle in building up her present modern institutions. It must be remembered that during the early struggles of Japan to maintain territorial integrity, while other nations had taken landed concessions from her and were threatening to carry out on

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her soil the same despoliation that was going on in China, America never took any part in this policy and always gave to Japan sympathetic encouragement and help. Large numbers of the leaders of Japan were educated in American schools. It is not proposed that America should do anything for China now that she did not do for Japan. One of the chief regrets of Americans in observing recent events in the Far East is that Japan, after having received such generous sympathy from America in her own dark hours, should not have joined America in extending the same spirit of friendship to China. On the contrary, she has frequently acted as if she were suspicious of American motives in China, though she would have recognized the baselessness of these suspicions if she had stopped to remember the events of her own history. When Japan has given up Shantung and adopted a more generous policy in Manchuria, she may be led by motives of her own self-interest to adopt toward China the American policy of friendly encouragement and coöperation and to renounce the aggrandizing schemes which she has adopted after the example of European nations.

A WORKABLE CONSTITUTION FOR CHINA

The first need of China is a constitution, but the methods which have been taken toward this end during the life of the Republic have proved abortive. In my opinion, they have met the fate which they have deserved, for it is impossible to impose a constitution upon any democracy. There have been three attempts in China to make a constitution for the country by the appointment of constitutional commissions which have had the aid of foreign advisers. The methods adopted were intended to be democratic but were in reality the traditional heritage of autocracy. Without any mandate from the people, groups of men who had at heart the interests of their respective countries met and adopted constitutions which they thought would be good for the people, just as in the earlier days emperors with their counsellors decreed laws, canons and governmental institutions. The mere fact that one method provided for a hereditary ruler and the other for an elective executive made no essential difference as far as the people were concerned, for they had no voice.

Such constitutions springing full-grown from the brain of the intellectuals can never become permanent. The only way in which a national constitution can ever be established is for the smallest political units to work out constitutions for themselves, constitutions adapted to their own local purposes. The smallest existing political unit in China is the province, though in some instances important cities might serve such a purpose. Even these smallest political units, the provinces, are already large and the problem of working out for them constitutions, one by one, is bewildering in its involvements. Many of the provinces, such as Chehkiang, have two distinct geographical areas with existing rivalries between them and the problem of reconciling conditions even in existing provinces is tremendous.

I do not believe, however, that this problem is incapable of solution. The provinces can amalgamate the interests of their various sections and work out constitutions for themselves. These being decided upon and accepted by the people and having proved by a period of probation their adaptability to the needs of government, will become the units out of which the constitution for the whole country can be developed. In other words, any

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workable constitution for the Republic of China must develop upward from the smallest political units and never can be superimposed from above by any possible combination of the intellectuals of China.

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Appendix

The Canons of Ethics for Lawyers Adopted by the American Bar Association

[NOTE.—The following Canons of Professional Ethics were adopted by the American Bar Association at its thirty-first annual meeting at Seattle, Washington, on August 27, 1908.

The Canons were prepared by a committee composed of Henry St. George Tucker, Virginia, Chairman; Lucien Hugh Alexander, Pennsylvania, Secretary; David J. Brewer, District of Columbia; Frederick V. Brown, Minnesota; J. M. Dickinson, Illinois; Franklin Ferriss, Missouri; William Wirt Howe, Louisiana; Thomas H. Hubbard, New York; James G. Jenkins, Wisconsin; Thomas Goode Jones, Alabama; Alton B. Parker, New York; George R. Peck, Illinois; Francis Lynde Stetson, New York; Ezra R. Thayer, Massachusetts.]

I

PREAMBLE

IN America, where the stability of Courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing Justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of Justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

II

THE CANONS OF ETHICS

No code or set of rules can be framed, which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the American Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. *The Duty of the Lawyer to the Courts.* It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. *The Selection of Judges.* It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. *Attempts to Exert Personal Influence on the Court.* Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting

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independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. *When Counsel for an Indigent Prisoner.* A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. *The Defense or Prosecution of Those Accused of Crime.* It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. *Adverse Influences and Conflicting Interests.* It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. *Professional Colleagues and Conflicts of Opinion.* A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to coöperate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer, are unworthy of those who should be brethren at the Bar; but, nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. *Advising Upon the Merits of a Client's Cause.* A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. *Negotiations With Opposite Party.* A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid

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everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. *Acquiring Interest in Litigation.* The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. *Dealing With Trust Property.* Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. *Fixing the Amount of the Fee.* In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. *Contingent Fees.* Contingent fees, where sanctioned by law, should be under the supervision of the Court, in order that clients may be protected from unjust charges.

14. *Suing a Client for a Fee.* Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. *How Far a Lawyer May Go in Supporting a Client's Cause.* Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. *Restraining Clients from Improprieties.* A lawyer should use his best efforts to restrain and to prevent his clients

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from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. *Ill Feeling and Personalities Between Advocates.* Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. *Treatment of Witnesses and Litigants.* A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. *Appearance of Lawyer as Witness for His Client.* When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in Court in behalf of his client.

20. *Newspaper Discussion of Pending Litigation.* Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the Court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. *Punctuality and Expedition.* It is the duty of the lawyer not only to his client, but also to the Courts and to the public to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. *Candor and Fairness.* The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language of the argument of opposing counsel, or the language of a decision or a text-book; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the Court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. *Attitude Toward Jury.* All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their

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personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. *Right of Lawyer to Control the Incidents of the Trial.* As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. *Taking Technical Advantage of Opposite Counsel; Agreements With Him.* A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. *Professional Advocacy Other Than Before Courts.* A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. *Advertising, Direct or Indirect.* The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. *Stirring up Litigation, Directly or Through Agents.* It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital *attachés* or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the

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ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. *Upholding the Honor of the Profession.* Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. *Justifiable and Unjustifiable Litigations.* The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. *Responsibility for Litigation.* No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. *The Lawyer's Duty in Its Last Analysis.* No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

III

OATH OF ADMISSION

The general principles which should ever control the lawyer in the practice of his profession are clearly set forth in the following Oath of Admission to the Bar, formulated upon that in use in the State of Washington, and which conforms in its main outlines to the "duties" of lawyers as defined by statutory enactments in that and many other States of the Union[1]—duties which they are sworn on admission to obey and for the wilful violation of which disbarment is provided:

[1] Alabama, California, Georgia, Idaho, Indiana, Iowa, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wisconsin. The oaths

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I DO SOLEMNLY SWEAR:

I will support the Constitution of the United States and the Constitution of the State of .....;

I will maintain the respect due to Courts of Justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the Judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact perjudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD.

We commend this form of oath for adoption by the proper authorities in all the States and Territories.

administered on admission to the Bar in all the other States require the observance of the highest moral principle in the practice of the profession, but the duties of the lawyer are not as specifically defined by law as in the States named.

Principles of Medical Ethics of the American Medical Association

Adopted by the House of Delegates at Atlantic City, N. J., June 4, 1912

CHAPTER I

The Duties of Physicians to Their Patients

THE PHYSICIAN'S RESPONSIBILITY

SECTION 1.—A profession has for its prime object the service it can render to humanity; reward or financial gain should be a subordinate consideration. The practice of medicine is a profession. In choosing this profession an individual assumes an obligation to conduct himself in accord with its ideals.

PATIENCE, DELICACY AND SECRECY

SEC. 2.—Patience and delicacy should characterize all the acts of a physician. The confidences concerning individual or domestic life entrusted by a patient to a physician and the defects of disposition or flaws of character observed in patients during medical attendance should be held as a trust and should never be revealed except when imperatively required by the laws of the state. There are occasions, however, when a physician must determine whether or not his duty to society requires him to take definite action to protect a healthy individual from becoming infected, because the physician has knowledge, obtained through the confidences entrusted to him as a physician, of a communicable disease to which the healthy individual is about to be exposed. In such a case, the physician should act as he would desire another to act toward one of his own family under like circumstances. Before he determines his course, the physician should know the civil law of his commonwealth concerning privileged communications.

PROGNOSIS

SEC. 3.—A physician should give timely notice of dangerous manifestations of the disease to the friends of the patient. He should neither exaggerate nor minimize the gravity of the patient's condition. He should assure himself that the patient or his friends have such knowledge of the patient's condition as will serve the best interests of the patient and the family.

PATIENTS MUST NOT BE NEGLECTED

SEC. 4.—A physician is free to choose whom he will serve. He should, however, always respond to any request for his assistance in an emergency or whenever temperate public opinion expects the service. Once having undertaken a case, a physician should not abandon or neglect the patient because the disease is deemed incurable; nor

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should he withdraw from the case for any reason until a sufficient notice of a desire to be released has been given the patient or his friends to make it possible for them to secure another medical attendant.

CHAPTER II

The Duties of Physicians to Each Other and to the Profession at Large

ARTICLE 1.—DUTIES TO THE PROFESSION

UPHOLD HONOR OF PROFESSION

SECTION 1.—The obligation assumed on entering the profession requires the physician to comport himself as a gentleman and demands that he use every honorable means to uphold the dignity and honor of his vocation, to exalt its standards and to extend its sphere of usefulness. A physician should not base his practice on an exclusive dogma or sectarian system, for "sects are implacable despots; to accept their thraldom is to take away all liberty from one's action and thought." (Nicon, father of Galen.)

DUTY OF MEDICAL SOCIETIES

SEC. 2.—In order that the dignity and honor of the medical profession may be upheld, its standards exalted, its sphere of usefulness extended, and the advancement of medical science promoted, a physician should associate himself with medical societies and contribute his time, energy and means in order that these societies may represent the ideals of the profession.

DEPORTMENT

SEC. 3.—A physician should be "an upright man, instructed in the art of healing." Consequently, he must keep himself pure in character and conform to a high standard of morals, and must be diligent and conscientious in his studies. "He should also be modest, sober, patient, prompt to do his whole duty without anxiety; pious without going so far as superstition, conducting himself with propriety in his profession and in all the actions of his life." (Hippocrates.)

ADVERTISING

SEC. 4.—Solicitation of patients by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure patients by indirection through solicitors or agents of any kind, or by indirect advertisement, or by furnishing or inspiring newspaper or magazine comments concerning cases in which the physician has been or is concerned. All other like self-laudations defy the traditions and lower the tone of any profession and so are intolerable. The most worthy and effective advertisement possible, even for a young physician, and especially with his brother physicians, is the establishment of a well-merited reputation for professional ability and fidelity. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. As implied, it is unprofessional to disregard local customs and offend recognized ideals in publishing or circulating such cards.

It is unprofessional to promise radical cures; to boast of cures and secret methods of treatment or remedies; to exhibit certificates of skill or of success in the treatment of diseases; or to employ any methods to gain the attention of the public for the purpose of obtaining patients.

PATENTS AND PERQUISITES

SEC. 5.—It is unprofessional to receive remuneration from patents for surgical instruments or medicines; to accept rebates on prescriptions or surgical appliances, or perquisites from attendants who aid in the care of patients.

MEDICAL LAWS—SECRET REMEDIES

SEC. 6.—It is unprofessional for a physician to assist unqualified persons to evade legal restrictions governing the practice of medicine; it is equally unethical to prescribe or dispense secret medicines or other secret remedial agents, or manufacture or promote their use in any way.

SAFEGUARDING THE PROFESSION

SEC. 7.—Physicians should expose without fear or favor, before the proper medical or legal tribunals, corrupt or dishonest conduct of members of the profession. Every physician should aid in safeguarding the profession against the admission to its

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ranks of those who are unfit or unqualified because deficient either in moral character or education.

ARTICLE II.—PROFESSIONAL SERVICES OF PHYSICIANS TO EACH OTHER

PHYSICIANS DEPENDENT ON EACH OTHER

SECTION 1.—Experience teaches that it is unwise for a physician to treat members of his own family or himself. Consequently, a physician should always cheerfully and gratuitously respond with his professional services to the call of any physician practicing in his vicinity, or of the immediate family dependents of physicians.

COMPENSATION FOR EXPENSES

SEC. 2.—When a physician from a distance is called on to advise another physician or one of his family dependents, and the physician to whom the service is rendered is in easy financial circumstances, a compensation that will at least meet the traveling expenses of the visiting physician should be proffered. When such a service requires an absence from the accustomed field of professional work of the visitor that might reasonably be expected to entail a pecuniary loss, such loss should, in part at least, be provided for in the compensation offered.

ONE PHYSICIAN TO TAKE CHARGE

SEC. 3.—When a physician or a member of his dependent family is seriously ill, he or his family should select a physician from among his neighboring colleagues to take charge of the case. Other physicians may be associated in the care of the patient as consultants.

ARTICLE III.—DUTIES OF PHYSICIAN IN CONSULTATIONS

CONSULTATIONS SHOULD BE REQUIRED

SECTION 1.—In serious illness, especially in doubtful or difficult conditions, the physician should request consultations.

CONSULTATION FOR PATIENT'S BENEFIT

SEC. 2.—In every consultation, the benefit to be derived by the patient is of first importance. All the physicians interested in the case should be frank and candid with the patient and his family. There never is occasion for insincerity, rivalry or envy and these should never be permitted between consultants.

PUNCTUALITY

SEC. 3.—It is the duty of a physician, particularly in the instance of a consultation, to be punctual in attendance. When, however, the consultant or the physician in charge is unavoidably delayed, the one who first arrives should wait for the other for a reasonable time, after which the consultation should be considered postponed. When the consultant has come from a distance, or when for any reason it will be difficult to meet the physician in charge at another time, or if the case is urgent, or if it be the desire of the patient, he may examine the patient and mail his written opinion, or see that it is delivered under seal, to the physician in charge. Under these conditions, the consultant's conduct must be especially tactful; he must remember that he is framing an opinion without the aid of the physician who has observed the course of the disease.

PATIENT REFERRED TO SPECIALIST

SEC. 4.—When a patient is sent to one specially skilled in the care of the condition from which he is thought to be suffering, and for any reason it is impracticable for the physician in charge of the case to accompany the patient, the physician in charge should send to the consultant by mail, or in the care of the patient under seal, a history of the case, together with the physician's opinion and an outline of the treatment, or so much of this as may possibly be of service to the consultant; and as soon as possible after the case has been seen and studied, the consultant should address the physician in charge and advise him of the results of the consultant's investigation of the case. Both these opinions are confidential and must be so regarded by the consultant and by the physician in charge.

DISCUSSIONS IN CONSULTATION

SEC. 5.—After the physicians called in consultation have completed their investigations of the case, they may meet by themselves to discuss conditions and determine the course to be followed in the treatment of the patient. No statement or discussion of the case should take place before the patient or friends, except in the presence of all the physicians attending, or by their

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common consent; and no opinions or prognostications should be delivered as a result of the deliberations of the consultants, which have not been concurred in by the consultants at their conference.

ATTENDING PHYSICIAN RESPONSIBLE

SEC. 6.—The physician in attendance is in charge of the case and is responsible for the treatment of the patient. Consequently, he may prescribe for the patient at any time and is privileged to vary the mode of treatment outlined and agreed on at a consultation whenever, in his opinion, such a change is warranted. However, at the next consultation, he should state his reasons for departing from the course decided on at the previous conference. When an emergency occurs during the absence of the attending physician, a consultant may provide for the emergency and the subsequent care of the patient until the arrival of the physician in charge, but should do no more than this without the consent of the physician in charge.

CONFLICT OF OPINION

SEC. 7.—Should the attending physician and the consultant find it impossible to agree in their view of a case another consultant should be called to the conference or the first consultant should withdraw. However, since the consultant was employed by the patient in order that his opinion might be obtained, he should be permitted to state the result of his study of the case to the patient, or his next friend in the presence of the physician in charge.

CONSULTANT AND ATTENDANT

SEC. 8.—When a physician has attended a case as a consultant, he should not become the attendant of the patient during that illness except with the consent of the physician who was in charge at the time of the consultation.

ARTICLE IV.—DUTIES OF PHYSICIANS IN CASES OF INTERFERENCE

CRITICISM TO BE AVOIDED

SECTION 1.—The physician, in his intercourse with a patient under the care of another physician, should observe the strictest caution and reserve; should give no disingenuous hints relative to the nature and treatment of the patient's disorder; nor should the course of conduct of the physician, directly or indirectly, tend to diminish the trust reposed in the attending physician.

SOCIAL CALLS ON PATIENT OF ANOTHER PHYSICIAN

SEC. 2.—A physician should avoid making social calls on those who are under the professional care of other physicians without the knowledge and consent of the attendant. Should such a friendly visit be made, there should be no inquiry relative to the nature of the disease or comment upon the treatment of the case, but the conversation should be on subjects other than the physical condition of the patient.

SERVICES TO PATIENT OF ANOTHER PHYSICIAN

SEC. 3.—A physician should never take charge of or prescribe for a patient who is under the care of another physician, except in an emergency, until after the other physician has relinquished the case or has been properly dismissed.

CRITICISM TO BE AVOIDED

SEC. 4.—When a physician does succeed another physician in the charge of a case, he should not make comments on or insinuations regarding the practice of the one who preceded him. Such comments or insinuations tend to lower the esteem of the patient for the medical profession and so react against the critic.

EMERGENCY CASES

SEC. 5.—When a physician is called in an emergency and finds that he has been sent for because the family attendant is not at hand, or when a physician is asked to see another physician's patient because of an aggravation of the disease, he should provide only for the patient's immediate need and should withdraw from the case on the arrival of the family physician after he has reported the condition found and the treatment administered.

WHEN SEVERAL PHYSICIANS ARE SUMMONED

SEC. 6.—When several physicians have been summoned in a case of sudden illness

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or of accident, the first to arrive should be considered the physician in charge. However, as soon as the exigencies of the case permit, or on the arrival of the acknowledged family attendant or the physician the patient desires to serve him, the first physician should withdraw in favor of the chosen attendant; should the patient or his family wish some one other than the physician known to be the family physician to take charge of the case the patient should advise the family physician of his desire. When, because of sudden illness or accident, a patient is taken to a hospital, the patient should be returned to the care of his known family physician as soon as the condition of the patient and the circumstances of the case warrant this transfer.

A COLLEAGUE'S PATIENT

SEC. 7.—When a physician is requested by a colleague to care for a patient during his temporary absence, or when, because of an emergency, he is asked to see a patient of a colleague, the physician should treat the patient in the same manner and with the same delicacy as he would have one of his own patients cared for under similar circumstances. The patient should be returned to the care of the attending physician as soon as possible.

RELINQUISHING PATIENT TO REGULAR ATTENDANT

SEC. 8.—When a physician is called to the patient of another physician during the enforced absence of that physician, the patient should be relinquished on the return of the latter.

SUBSTITUTING IN OBSTETRIC WORK

SEC. 9.—When a physician attends a woman in labor in the absence of another who has been engaged to attend, such physician should resign the patient to the one first engaged, upon his arrival; the physician is entitled to compensation for the professional services he may have rendered.

ARTICLE V.—DIFFERENCES BETWEEN PHYSICIANS

ARBITRATION

SECTION 1.—Whenever there arises between physicians a grave difference of opinion which cannot be promptly adjusted, the dispute should be referred for arbitration to a committee of impartial physicians, preferably the Board of Censors of a component county society of the American Medical Association.

ARTICLE VI.—COMPENSATION

LIMITS OF GRATUITOUS SERVICE

SECTION 1.—The poverty of a patient and the mutual professional obligation of physicians should command the gratuitous services of a physician. But institutions endowed by societies, and organizations for mutual benefit, or for accident, sickness and life insurance, or for analogous purposes, should be accorded no such privileges.

CONTRACT PRACTICE

SEC. 2.—It is unprofessional for a physician to dispose of his services under conditions that make it impossible to render adequate service to his patient or which interfere with reasonable competition among the physicians of a community. To do this is detrimental to the public and to the individual physician, and lowers the dignity of the profession.

SECRET DIVISION OF FEES CONDEMNED

SEC. 3.—It is detrimental to the public good and degrading to the profession, and therefore unprofessional, to give or to receive a commission. It is also unprofessional to divide a fee for medical advice or surgical treatment, unless the patient or his next friend is fully informed as to the terms of the transaction. The patient should be made to realize that a proper fee should be paid the family physician for the service he renders in determining the surgical or medical treatment suited to the condition, and in advising concerning those best qualified to render any special service that may be required by the patient.

CHAPTER III

The Duties of the Profession to the Public

PHYSICIANS AS CITIZENS

SECTION 1.—Physicians, as good citizens and because their professional training specially qualifies them to render this service, should give advice concerning the public health of the community. They

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should bear their full part in enforcing its laws and sustaining the institutions that advance the interests of humanity. They should coöperate especially with the proper authorities in the administration of sanitary laws and regulations. They should be ready to counsel the public on subjects relating to sanitary police, public hygiene and legal medicine.

PHYSICIANS SHOULD ENLIGHTEN PUBLIC—DUTIES IN EPIDEMICS

SEC. 2.—Physicians, especially those engaged in public health work, should enlighten the public regarding quarantine regulations; on the location, arrangement and dietaries of hospitals, asylums, schools, prisons and similar institutions; and concerning measures for the prevention of epidemic and contagious diseases. When an epidemic prevails, a physician must continue his labors for the alleviation of suffering people, without regard to the risk to his own health or life or to finanical return. At all times, it is the duty of the physician to notify the properly constituted public health authorities of every case of communicable disease under his care, in accordance with the laws, rules and regulations of the health authorities of the locality in which the patient is.

PUBLIC WARNED

SEC. 3.—Physicians should warn the public against the devices practiced and the false pretensions made by charlatans which may cause injury to health and loss of life.

PHARMACISTS

SEC. 4.—By legitimate patronage, physicians should recognize and promote the profession of pharmacy; but any pharmacist, unless he be qualified as a physician, who assumes to prescribe for the sick, should be denied such countenance and support. Moreover, whenever a druggist or pharmacist dispenses deteriorated or adulterated drugs, or substitutes one remedy for another designated in a prescription, he thereby forfeits all claims to the favorable consideration of the public and physicians.

CONCLUSION

While the foregoing statements express in a general way the duty of the physician to his patients, to other members of the profession and to the profession at large, as well as of the profession to the public, it is not to be supposed that they cover the whole field of medical ethics, or that the physician is not under many duties and obligations besides these herein set forth. In a word, it is incumbent on the physician that under all conditions, his bearing toward patients, the public and fellow practitioners should be characterized by a gentlemanly deportment and that he constantly should behave toward others as he desires them to deal with him. Finally, these principles are primarily for the good of the public, and their enforcement should be conducted in such a manner as shall deserve and receive the endorsement of the community.

Code of Ethics of the Graduate Nurses' Association of the State of Pennsylvania

Adopted by the Association in 1904

SECTION 1.—There is no profession open to women, from the members of which greater purity of character and a higher standard of moral excellence are required, than that of nursing, and every one who has entered the profession has incurred an obligation to maintain its dignity and honor.

SEC. 2.—A nurse can best do honor to her Association by her personal conduct, and by the high character of her professional work. When a nurse becomes a member of the Association she tacitly admits that she owes it her allegiance.

SEC. 3.—Every member of the Association should feel it her duty to further its interests, not only by attendance at the meetings and the payment of dues, but also by giving her hearty support to all work for the elevation and advancement of the Association, and by interesting the public in such work in all legitimate ways.

SEC. 4.—A nurse as a good citizen should do all in her power to improve the hygienic conditions of the community in which she resides.

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The Code of Ethics of the National Dental Association

ARTICLE I

THE DUTIES OF THE PROFESSION TO THEIR PATIENTS

SECTION 1.—The dentist should be ever ready to respond to the wants of his patrons, and should fully recognize the obligations involved in the discharge of his duties toward them. As he is in most cases unable to correctly estimate the character of his operations, his own sense of right must guarantee faithfulness in their performance. His manner should be firm, yet kind and sympathizing so as to gain the respect and confidence of his patients, and even the simplest case committed to his care should receive that attention which is due to operations performed on living, sensitive tissue.

SEC. 2.—It is not to be expected that the patient will possess a very extended or a very accurate knowledge of professional matters. The dentist should make due allowance for this, patiently explaining many things which may seem quite clear to himself, thus endeavoring to educate the public mind so that it will properly appreciate the beneficent efforts of our profession. He should encourage no false hopes by promising success when, in the nature of the case, there is uncertainty.

SEC. 3.—The dentist should be temperate in all things, keeping both mind and body in the best possible health, that his patients may have the benefit of that clearness of judgment and skill which is their right.

ARTICLE II

MAINTAINING PROFESSIONAL CHARACTER

SECTION 1.—A member of the dental profession is bound to maintain its honor and to labor earnestly to extend its sphere of usefulness. He should avoid everything in language and conduct calculated to dishonor his profession, and should ever manifest a due respect for his brethren. The young should show special respect to their seniors; the aged, special encouragement to their juniors.

SEC. 2.—It is unprofessional to resort to public advertisement, cards, handbills, posters, or signs, calling attention to peculiar styles of work, lowness of prices, special modes of operating; or to claim superiority over neighboring practitioners; to publish reports of cases or certificates in the public prints, to circulate or recommend nostrums; or to perform any other similar acts. But nothing in this section shall be so construed as to imply that it is unprofessional for dentists to announce in the public prints, or by cards, simply their names, occupation, and place of business, or in the same manner to announce their removal, absence from or return to business, or to issue to their patients appointment cards having a fee bill for professional services thereon.

SEC. 3.—When consulted by the patient of another practitioner the dentist should guard against inquiries or hints disparaging to the family dentist or calculated to weaken the patient's confidence in him; and if the interest of the patient will not be endangered thereby, the case should be temporarily treated, and referred back to the family dentist.

SEC. 4.—When general rules shall have been adopted by members of the profession practicing in the same localities in relation to fees, it is unprofessional and dishonorable to depart from these rules, except when variation of circumstances require it. And it is ever to be regarded as unprofessional to warrant operations as an inducement to patronage.

ARTICLE III

CONSULTATIONS

Consultations should be promoted in difficult or protracted cases, as they give rise to confidence, energy, and broader views in practice. In consultations that courtesy and just dealing should be especially observed.

ARTICLE IV

THE RELATIVE DUTIES OF DENTISTS AND PHYSICIANS

Dental surgery is a specialty in medical science. Physicians and dentists should both bear this in mind. The dentist is professionally limited to diseases of the dental organs and adjacent parts. With these he

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should be more familiar than the general practitioner is expected to be; and while he recognizes the broader knowledge of the physician in regard to diseases of the general system, the latter is under equal obligations to respect his higher attainments in his specialty.

ARTICLE V

THE MUTUAL DUTIES OF THE PROFESSION AND THE PUBLIC

Dentists are frequent witnesses, and at the same time the best judges, of the impositions perpetrated by quacks, and it is their duty to enlighten and warn the public in regard to them. For this and many other benefits conferred by the competent and honorable dentist, the profession is entitled to the confidence and respect of the public, who should always discriminate in favor of the true man of science and integrity against the empiric and the imposter. The public has no right to tax the time and talents of the profession in examinations, prescriptions, or in any other way, without proper remuneration.

Code of Ethics of the American Pharmaceutical Association

Adopted in 1852

The American Pharmaceutical Association, composed of Pharmaceutists and Druggists throughout the United States, feeling a strong interest in the success and advancement of their profession in its practical and scientific relations, and also impressed with the belief that no amount of knowledge and skill will protect themselves and the public from the ill effects of an undue competition, and the temptations to gain at the expense of quality, unless they are upheld by high moral obligations in the path of duty, have subscribed to the following Code of Ethics for the government of their professional conduct.

ARTICLE 1.—As the practice of pharmacy can only become uniform by an open and candid intercourse being kept up between apothecaries and druggists among themselves and each other, by the adoption of the National Pharmacopoeia as a guide in the preparation of official medicines, and by the discontinuance of secret formulae and the practices arising from a quackish spirit, and by an encouragement of that esprit de corps which will prevent a resort to those disreputable practices arising out of an injurious and wicked competition; Therefore, the members of this Association agree to uphold the use of the Pharmacopoeia in their practice; to cultivate brotherly feeling among the members, and to discountenance quackery and dishonorable competition in their business.

ART. 2.—As labor should have its just reward, and as skill, knowledge and responsibility required in the practice of pharmacy are great, the remuneration of the pharmaceutist's services should be proportioned to these, rather than to the market value of the preparations vended. The rate of charges will necessarily vary with geographical position, municipal location, and other circumstances of a permanent character, but a resort to intentional and unnecessary reduction in the rate of charges among apothecaries, with a view to gaining at the expense of their brethern, is strongly discountenanced by this Association as productive of evil results.

ART. 3.—The first duty of the apothecary, after duly preparing himself for his profession, being to procure good drugs and preparations (for without these his skill and knowledge are of small avail), he frequently has to rely on the good faith of the druggist for their selection. Those druggists whose knowledge, skill and integrity enable them to conduct their business faithfully, should be encouraged, rather than those who base their claims of patronage on the cheapness of their articles solely. When accidentally or otherwise, a deteriorated, or adulterated drug or medicine is sent to the apothecary, he should invariably return it to the druggist, with a statement of its defects. What is too frequently considered a mere error of trade on the part of the druggist, becomes a highly culpable act when countenanced by the apothecary; hence, when repetitions of

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such frauds occur, they should be exposed for the benefit of the profession. A careful but firm pursuit of this course would render well-disposed druggists more careful and deter the fraudulently inclined from a resort to their disreputable practices.

ART. 4.—As the practice of pharmacy is quite distinct from the practice of medicine, and has been found to flourish in proportion as its practitioners have confined their attention to its requirements; and as the conduction of the business of both professions by the same individual involves pecuniary temptations which are often not compatible with a conscientious discharge of duty; we consider that the members of this Association should discountenance all such professional amalgamation; and in conducting business at the counter, should avoid prescribing for diseases when practicable, referring applicants for medical advice to the physician. We hold it as unprofessional and highly reprehensible for apothecaries to allow any percentage or commission to physicians on their prescriptions, as unjust to the public, and hurtful to the independence and self-respect of both parties concerned. We also consider that the practice of some physicians (in places where good apothecaries are numerous), of obtaining medicines at low prices from the latter, and selling them to their patients, is not only unjust and unprofessional, but deserving the censure of all high-minded medical men.

ART. 5.—The important influence exerted on the practice of pharmacy by the large proportion of physicians who have resigned its duties and emoluments to the apothecary, are reasons why he should seek their favorable opinion and cultivate their friendship, by earnest endeavors to furnish their patients with pure and well-prepared medicines. As physicians are liable to commit errors in writing their prescriptions, involving serious consequences to health and reputation if permitted to leave the shop, the apothecary should always, when he deems an error has been made, consult the physician before proceeding; yet in the delay which must necessarily occur, it is his duty, when possible, to accomplish the interview without compromising the reputation of the physician. On the other hand, when apothecaries commit errors involving ill consequences, the physician, knowing the constant liability to error, should feel bound to screen them from undue censure, unless the result of a culpable negligence.

ART. 6.—As we owe a debt of gratitude to our predecessors for the researches and observations which have so far advanced our scientific art, we hold that every apothecary and druggist is bound to contribute his mite toward the same fund, by noting the new ideas and phenomena which may occur in the course of his business, and publishing them, when of sufficient consequence, for the benefit of the profession.

This code of ethics is evidently in need of revision. The following code is proposed for adoption at the annual meeting of the American Pharmaceutical Association in the autumn of 1922.

Principles of Pharmaceutical Ethics

Proposed by Charles H. LaWall for Adoption by the American Pharmaceutical Association at its Annual Meeting in 1922

CHAPTER I

THE DUTIES OF THE PHARMACIST IN CONNECTION WITH HIS SERVICES TO THE PUBLIC

Pharmacy has for its primary object the service which it can render to the public in safeguarding the handling, sale, compounding and dispensing of medicinal substances.

The practice of Pharmacy demands knowledge, skill and integrity on the part of those engaged in it. Pharmacists are required to pass certain educational tests in order to qualify for registration under the laws of most of our states. These various states restrict the practice of Pharmacy to those qualifying according to the regulatory requirements thereby granting to them a special privilege which is denied other citizens.

In return the states expect the Pharma-

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cist to recognize his responsibility to the community and to fulfil his professional obligations honorably and with due regard for the physical well being of society.

The Pharmacist should uphold the accepted standards of the United States Pharmacopoeia and the National Formulary for articles which are official in either of these works and should, as far as possible, encourage the use of these official drugs and preparations and discourage the use of proprietaries and nostrums. He should use only drugs and chemicals of the best quality obtainable for prescription filling and for sale when the articles are to be used for medicinal purposes.

He should neither buy, sell nor use substandard drugs except for uses which are not in any way connected with medicinal purposes. When a substance is sold for technical use the quality furnished should be governed by the grade required for the stated purpose.

The Pharmacist should be properly remunerated by the public for his knowledge and skill when used in its behalf in compounding prescriptions, and his fee for such professional work as well as the cost of the ingredients.

The Pharmacist should not sell or dispense powerful drugs and poisons indiscriminately to persons not properly qualified to administer or use them, and should use every proper precaution to safeguard the public from poisons and from all habit-forming medicines.

The Pharmacist, being legally entrusted with the dispensing and sale of narcotic drugs and alcoholic liquors, should merit this responsibility by upholding and conforming to the laws and regulations governing the distribution of these substances.

The Pharmacist should seek to enlist and merit the confidence of his patrons and when this confidence is won it should be jealously guarded and never abused by extortion or misrepresentation or in any other manner.

The Pharmacist should consider the knowledge which he gains of their ailments, and the confidences of his patrons regarding these matters as entrusted to his honor, and he should never divulge such facts unless compelled to do so by law.

The Pharmacist should hold the health and safety of his patrons to be of first consideration; he should make no attempt to prescribe or to treat diseases or strive to sell nostrums or specifics simply for the sake of profit. When an epidemic prevails, the Pharmacist should continue his labors for the alleviation of suffering without regard to risk of his own health and without consideration of emolument.

He should keep his store clean, neat and sanitary in all its departments and should be well supplied with accurate measuring and weighing devices and other suitable apparatus for the proper performance of his professional duties.

It is considered inimical to public welfare for the Pharmacist to have any clandestine arrangement with any physician in which fees are divided or in which secret prescriptions are concerned.

Pharmacists should primarily be good citizens, should uphold and defend the laws of the state and nation. They should inform themselves concerning the laws, particularly those relating to food and drug adulteration and those pertaining to health and sanitation and should always be ready to coöperate with the proper authorities having charge of the enforcement of the laws.

The Pharmacist should be willing to join in any constructive effort to promote the public welfare and he should share his public and private conduct and deeds so as to entitle him to the respect and confidence of the community in which he practices.

CHAPTER II

THE DUTIES OF THE PHARMACIST IN HIS RELATIONS TO THE PHYSICIAN

The Pharmacist even when urgently requested so to do should always refuse to prescribe or attempt diagnoses. He should under such circumstances, refer applicants for medical aid to a reputable legally qualified physician. In cases of extreme emergency as in accident or sudden illness on the street in which persons are brought to him pending the arrival of a physician such prompt action should be taken to prevent suffering as is dictated by humanitarian impulses and guided by scientific knowledge and common sense.

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The Pharmacist should not, under any circumstances, substitute one article for another, or one make of an article for another in a prescription, without the consent of the physician who wrote it. No essential change should be made in a physician's prescription except such as is warranted by correct pharmaceutical procedure, nor any that will interfere with the obvious intent of the prescriber, as regards therapeutic action.

He should follow the physician's directions explicitly in the matter of refilling prescriptions, copying the formula upon the label or giving a copy of the prescription to the patient. He should not add any extra directions or caution or poison labels without due regard for the wishes of the prescriber, providing the safety of the patient is not jeopardized.

Whenever there is doubt as to the interpretation of the physician's prescription or directions, he should invariably confer with the physician in order to avoid a possible mistake or an unpleasant situation.

He should never discuss the therapeutic effect of a physician's prescription with a patron or disclose details of composition which the physician has withheld, suggesting to the patient that such details can be properly discussed with the prescriber only.

Where an obvious error or omission in a prescription is detected by the Pharmacist, he should protect the interests of his patron and also the reputation of the physician by conferring confidentially upon the subject, using the utmost caution and delicacy in handling such an important matter.

CHAPTER III

THE DUTIES OF PHARMACISTS TO EACH OTHER AND TO THE PROFESSION AT LARGE

The Pharmacist should strive to perfect and enlarge his professional knowledge. He should contribute his share toward the scientific progress of his profession and encourage and participate in research, investigation and study.

He should associate himself with pharmaceutical organizations whose aims are compatible with this code of ethics and to whose membership he may be eligible. He should contribute his share of time and energy to carrying on the work of these organizations and promoting their welfare. He should keep himself informed upon professional matters by reading current pharmaceutical and medical literature.

He should perform no act, nor should he be a party to any transaction which will bring discredit to his profession or in any way bring criticism upon it, nor should he unwarrantedly criticize a fellow pharmacist or do anything to diminish the trust reposed in the practitioners of pharmacy.

The Pharmacist should expose any corrupt or dishonest conduct of any member of his profession which comes to his certain knowledge, through those accredited processes provided by the civil laws or the rules and regulations of pharmaceutical organizations, and he should aid in driving the unworthy out of the calling.

He should not allow his name to be used in connection with advertisements or correspondence for furthering the sale of nostrums or accept agencies for such.

He should courteously aid a fellow pharmacist who in an emergency needs supplies. Such transactions had better be made in the form of a sale rather than by borrowing, as is often the custom.

He should not aid any person to evade legal requirements regarding time and experience by carelessly or improperly endorsing or approving statements to which he would not be willing to make affidavit.

He should not undersell a fellow pharmacist for the sake of commercial advantage.

He should not imitate the labels of his competitors or take any other unfair advantage of merited professional or commercial success. When a bottle or package of a medicine is brought to him to be filled, he should remove all other labels and place his own thereon unless the patron requests otherwise.

He should not fill orders which come to him by mistake, being originally intended for a competitor.

He should never request a copy of a prescription from another pharmacist. It is the patient's duty to attend to this if he wishes to make a change in pharmacists.

He should deal fairly with manufacturers and wholesale druggists from whom he pur-

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chases his supplies; all goods received in error or excess and all undercharges should be as promptly reported as are shortages and overcharges.

He should earnestly strive to follow all trade regulations and rules, promptly meet all obligations and closely adhere to all contracts and agreements.

Code of Ethics Adopted by the American Society of Mechanical Engineers in June 1914

A. General Principles

It is not assumed that this code shall define in detail the duties and obligations of engineers under all possible circumstances. It is an axiom that engineers in all their professional relations should be governed by principles of honor, honesty, strict fidelity to trusts imposed upon them, and courteous behavior toward all. The following sections are framed to cover situations arising most frequently in engineers' work.

It is the duty of engineers to satisfy themselves to the best of their ability that the enterprises with which they become identified are of legitimate character. If an engineer after becoming associated with an enterprise finds it to be of questionable character, he should sever his connection with it as soon as practicable, avoiding in so doing reflections on his previous associates.

B. The Engineer's Relations to Client or Employer

The engineer should consider the protection of a client's or employer's interests his first obligation, and therefore should avoid every act contrary to this duty. If any other considerations, such as professional obligations or restrictions, interfere with his meeting the legitimate expectation of a client or employer, the engineer should so inform him.

An engineer cannot honorably accept compensation, financial or otherwise, from two or more parties having conflicting interests without the consent of all parties. The engineer, in whatever capacity, whether consulting, designing, installing, or operating, must not accept commissions, directly or indirectly, from parties dealing with his client or employer. The only condition under which such commissions may honorably be accepted is when they are given with the full knowledge and approval of all parties concerned.

An engineer called upon to decide on the use of inventions, apparatus, or anything in which he has a financial interest, should make his status clearly understood by those employing him.

The engineer, in conformity with the practice in other professions, should not offer or execute a bond to guarantee the performance of his work. The client's reliance for the satisfactory execution of his work should be the professional reputation and experience of the engineer.

An engineer in independent practice may be employed by more than one party, when the interests of the several parties do not conflict; and it should be understood that he is not expected to devote his entire time to the work of one, but is free to carry out other engagements. A consulting engineer permanently retained by a party, should notify other prospective clients of this affiliation before entering into relations with them, if in his opinion, the interests might conflict.

Before any consulting engineer takes over the work of another consulting engineer he should ask the client his reasons for desiring to change engineers and unless the consulting engineer is entirely satisfied that the client has good and sufficient reasons for making the change he should confer with the present incumbent before accepting the work.

Consultations should be encouraged in cases of doubt or unusual responsibility. The aim should be to give the client the advantage of collective skill. Discussions should be confidential. Consulting engineers should not say or do anything to impair confidence in the engineer in charge unless it is apparent that he is wholly

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incompetent or the interests of the profession so require.

Engineers acting as experts in legal and other cases, in making reports and testifying, should not depart from the true statement of results based on sound engineering principles. To base reports or testimony upon theories not so founded is unprofessional.

An engineer should make every effort to remedy dangerous defects in apparatus or structures or dangerous conditions of operation, and should immediately bring these to the attention of his client or employer. As failure of any engineering work reflects upon the whole profession, every engineer owes it to his professional associates as well as to himself that a reasonable degree of safety be provided in all work undertaken.

C. Ownership of Engineering Records and Data

It is desirable that an engineer undertaking for others work in connection with which he may make improvements, inventions, plans, designs or other records should first enter into an agreement regarding their ownership.

If an engineer uses information which is not common knowledge or public property, but which he obtains from a client or employer, resulting in plans, designs, or other records, these should be regarded as the property of his client or employer.

If a consulting engineer uses only his own knowledge, or information, which by prior publication, or otherwise, is public property and obtains no engineering data from a client or employer, except performance specifications or routine information; then in the absence of an agreement to the contrary, the results in the form of inventions, plans, designs, or other records should be regarded as the property of the engineer, and the client or employer should be entitled to their use only in the case for which the engineer was employed.

All work and results accomplished by an engineer in independent practice in the form of inventions, plans, designs, or other records, which are outside of the field of engineering for which a client or employer has retained him, should be regarded as the engineer's property unless there is an agreement to the contrary.

When an engineer or manufacturer builds apparatus from designs supplied to him by a customer, the designs remain the property of the customer and should not be duplicated by the engineer or manufacturer for others without express permission. When the engineer or manufacturer and a customer jointly work out designs and plans or develop inventions, a clear understanding should be reached before the beginning of the work regarding the respective rights or ownership in any inventions, designs, or matters of similar character, that may result.

Any engineering data or information which an engineer obtains from his client or employer, or which he creates as a result of such information, must be considered confidential by the engineer; and while he is justified in using such data or information in his own practice as forming part of his professional experience, its publication without express permission is improper.

Designs, data, records and notes made by an employe and referring exclusively to his employer's work, should be regarded as his employer's property.

A customer, in buying apparatus, does not acquire any right in its design, but only the use of the apparatus, purchased. A client does not acquire any right to the plans made by a consulting engineer except for the specific case for which they were made, unless there is an agreement to the contrary.

D. The Engineer's Relations to the Public

The engineer should endeavor to assist the public to a fair and correct general understanding of engineering matters, to extend the general knowledge of engineering, and to discourage the appearance of untrue, unfair or exaggerated statements on engineering subjects in the press or elsewhere, especially if these statements may lead to, or are made for the purpose of, inducing the public to participate in unworthy enterprises.

Technical discussions and criticisms of engineering subjects should not be conducted

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in the public press, but before engineering societies or in technical publications.

It is desirable that the first technical descriptions of inventions, or other engineering advances, should not be made through the public press, but before engineering societies or through technical publications.

It is unprofessional to give an opinion on a subject without being fully informed as to all the facts relating thereto and as to the purposes for which the information is asked. The opinion should contain a full statement of the conditions under which it applies.

Engineers engaged in private practice should limit their advertising to professional cards and modest signs in conformity with the practice of other professions.

E. THE ENGINEER'S RELATIONS TO THE ENGINEERING FRATERNITY

The engineer should take an interest in and assist his fellow engineers by exchange of general information and experience, by instruction and similar aid, through the engineering societies, the engineering schools, or other means. He should endeavor to protect all reputable engineers from misrepresentation.

The engineer should take care that credit for engineering work is attributed to those who, so far as his knowledge of the matter goes, are the real authors of such work.

Criticism of the work of one engineer by another should be broad and generous with the facts plainly stated. The success or failure of one member reflects credit or discredit on the whole profession.

The attitude of superiors toward subordinates should be that of helpfulness and encouragement. The attitude of subordinates to superiors should be one of loyalty and diligent support. The treatment of each by the other should be open and frank.

The attitude of an engineer toward contractors should be one of helpful coöperation. Tact and courtesy should be combined with firmness. An engineer should hold a judicial attitude toward both parties to a contract for the execution of which he is responsible.

An engineer in responsible charge of work should not permit non-technical persons to overrule his engineering judgment on purely engineering grounds.

F. INTERPRETATION

If two or more engineers, members of this Society, disagree as to the interpretation of this Code, or as to the proper rules of conduct which should govern them in professional relations to each other, they may agree to refer the matter to a standing committee of the Society on the interpretation of the Code. Each party shall submit a statement of his position in writing, and the committee shall render a decision. A permanent record shall be made of the cases so submitted and decided.

Amendments or additions to this Code may be made by the standing committee on interpretation of the Code, subject to the approval of the Council.

Respectfully submitted,

CHARLES W. BAKER, *Chmn.*
CHARLES T. MAIN,
E. D. MEIER,
SPENCER MILLER,
C. R. RICHARDS,

Members of Committee on Code of Ethics.

Code of Ethics of the American Society of Civil Engineers, Adopted September 2, 1914

It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any member of the American Society of Civil Engineers:

1. To act for his clients in professional matters otherwise than as a faithful agent or trustee, or to accept any remuneration other than his stated charges for services rendered his clients.

2. To attempt to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects, or business, of another Engineer.

3. To attempt to supplant another En-

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gineer after definite steps have been taken toward his employment.

4. To complete with another Engineer for employment on the basis of professional charges, by reducing his usual charges and in this manner attempting to underbid after being informed of the charges named by another.

5. To review the work of another Engineer for the same client, except with the knowledge or consent of such Engineer, or unless the connection of such Engineer with the work has been terminated.

6. To advertise in self-laudatory language, or in any other manner derogatory to the dignity of the Profession.

The Code of Ethics of the Engineering Institute of Canada, Incorporated 1887 as the Canadian Society of Civil Engineers

Every member of the Institute shall observe and be bound by the following regulations:—

1. He shall act in all professional matters strictly in a judiciary manner with regard to any clients whom he may advise and his charges to such clients shall constitute his only remuneration in connection with such work, except as provided by Clause 4.

2. He shall not accept any trade commissions, discounts, allowances, or any indirect profit in connection with any work which he is engaged to design or superintend or with professional business which may be entrusted to him.

3. He shall not, while acting in a professional capacity, be at the same time, without disclosing the fact in writing to his clients, a director or member, or a shareholder in, or act as agent for, any contracting or manufacturing company or firm or business with which he may have occasion to deal on behalf of his clients, or have any financial interest in such a business.

4. He shall not receive directly or indirectly any royalty, gratuity or commission on any patented or protected article or process used on work which he is carrying out for his clients, unless and until such royalty, gratuity or commission has been authorized in writing by those clients.

5. He shall not improperly solicit professional work, either directly or by an Agent, nor shall he pay, by commission or otherwise, any person who may introduce clients to him.

6. He shall not be the medium of payments made on his client's behalf to any Contractor or business firm (unless specially so requested by his clients) but shall only issue certificates or recommendations for payment by his clients.

Any alleged breach of these regulations or any alleged professional misconduct by a member which may be brought before the Council, properly vouched for and supported by sufficient evidence, shall be investigated, and if proved, shall be dealt with by the Council, either by the expulsion of the offender from the Institute or in such other manner as the Council may think fit.

Code of Principles of Professional Conduct of the American Institute of Electrical Engineers[1]

Adopted by the Board of Directors, March 8, 1912

A. General Principles.
B. The Engineer's Relations to Client or Employer.
C. Ownership of Engineering Records and Data.
D. The Engineer's Relations to the Public.
E. The Engineer's Relations to the Engineering Fraternity.
F. Amendments.

[1]HISTORY OF THE CODE

At the Milwaukee Convention in May, 1906, Dr. Schuyler Skaats Wheeler delivered his presidential address on "Engineering Honor." It was

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While the following principles express, generally, the engineer's relations to client, employer, the public, and the engineering fraternity, it is not presumed that they define all of the engineer's duties and obligations.

A. General Principles

1. In all of his relations the engineer should be guided by the highest principles of honor.

2. It is the duty of the engineer to satisfy himself to the best of his ability that the enterprises with which he becomes identified are of legitimate character. If after becoming associated with an enterprise he finds it to be of questionable character, he should sever his connection with it as soon as practicable.

B. The Engineer's Relations to Client or Employer

3. The engineer should consider the protection of a client's or employer's interests his first professional obligation, and therefore should avoid every act contrary to this duty. If any other considerations, such as professional obligations or restrictions, interfere with his meeting the legitimate expectation of a client or employer, the engineer should inform him of the situation.

4. An engineer cannot honorably accept compensation, financial or otherwise, from more than one interested party, without the consent of all parties. The engineer, whether consulting, designing, installing or operating, must not accept commissions, directly or indirectly, from parties dealing with his client or employer.

5. An engineer called upon to decide on the use of inventions, apparatus, or anything in which he has a financial interest, should make his status in the matter clearly understood before engagement.

6. An engineer in independent practice may be employed by more than one party, when the interests of the several parties do not conflict; and it should be understood that he is not expected to devote his entire time to the work of one, but is free to carry out other engagements. A consulting engineer permanently retained by a party, should notify others of this affiliation before entering into relations with them, if, in his opinion, the interests might conflict.

7. An engineer should consider it his duty

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the sense of the Convention that the ideas contained in this address should be embodied in a Code of Ethics for the electrical engineering profession, and to this end the following committee was appointed in October, 1906:

Schuyler Skaats Wheeler, *Chairman*
H. W. Buck — Charles P. Steinmetz

In May, 1907, the committee reported a code to the President and Board of Directors for discussion at the June Convention at Niagara Falls. It was discussed and adopted by the Convention but later the adoption had to be set aside on account of the provisions of the Constitution prohibiting conventions from acting upon questions affecting the Institute's organization or policy.

It was taken up by the Board of Directors on August 30, 1907, revised, printed and submitted to the membership for suggestions to be sent to a new committee appointed by President Stott.

It lay dormant until June, 1911, when, in accordance with a resolution of the Board of Directors, President Jackson appointed a committee.

The personnel of this committee, as reappointed by President Dunn in August, 1911, is as follows:

George F. Sever, *Chairman*
H. W. Buck — Charles P. Steinmetz
Samuel Reber — Henry G. Stott
Schuyler Skaats Wheeler

This committee's work was presented in a report to the Board of Directors on February 9, 1912, when the code was tentatively adopted. After a month's careful analysis and consideration of numerous suggestions from the advisory members of the committee and others, the completed code was adopted at the meeting of the Board of Directors on March 8, 1912.

At the meeting of February 9, the title of the committee and of the code was changed from that of Code of Ethics to Code of Principles of Professional Conduct.

The committee was assisted by eighteen advisory members appointed by the President. Their names are appended.

William S. Barstow	Henry H. Norris
Louis Bell	Ralph W. Pope
John J. Carty	Harris J. Ryan
Francis B. Crocker	Charles F. Scott
Dugald C. Jackson	Samuel Sheldon
A. E. Kennelly	William Stanley
John W. Lieb, Jr.	Lewis B. Stillwell
C. O. Mailloux	Elihu Thomson
Ralph D. Mershon	W. D. Weaver

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to make every effort to remedy dangerous defects in apparatus or structures or dangerous conditions of operation, and should bring these to the attention of his client or employer.

C. Ownership of Engineering Records and Data

8. It is desirable that an engineer undertaking for others work in connection with which he may make improvements, inventions, plans, designs, or other records, should enter into an agreement regarding their ownership.

9. If an engineer uses information which is not common knowledge or public property, but which he obtains from a client or employer; the results in the form of plans, designs, or other records, should not be regarded as his property, but the property of his client or employer.

10. If an engineer uses only his own knowledge, or information which by prior publication, or otherwise, is public property and obtains no engineering data from a client or employer, except performance specifications or routine information; then in the absence of an agreement to the contrary the results in the form of inventions, plans, designs, or other records, should be regarded as the property of the engineer, and the client or employer should be entitled to their use only in the case for which the engineer was retained.

11. All work and results accomplished by the engineer in the form of inventions, plans, designs, or other records, that are outside of the field of engineering for which a client or employer has retained him, should be regarded as the engineer's property unless there is an agreement to the contrary.

12. When an engineer or manufacturer builds apparatus from designs supplied to him by a customer, the designs remain the property of the customer and should not be duplicated by the engineer or manufacturer for others without express permission. When the engineer or manufacturer and a customer jointly work out designs and plans or develop inventions, a clear understanding should be reached before the beginning of the work regarding the respective rights of ownership in any inventions, designs, or matters of similar character, that may result.

13. Any engineering data or information which an engineer obtains from his client or employer, or which he creates as a result of such information, must be considered confidential by the engineer; and while he is justified in using such data or information in his own practise as forming part of his professional experience, its publication without express permission is improper.

14. Designs, data, records and notes made by an employe and referring exclusively to his employer's work, should be regarded as his employers property.

15. A customer, in buying apparatus, does not acquire any right in its design but only the use of the apparatus purchased. A client does not acquire any right to the plans made by a consulting engineer except for the specific case for which they were made.

D. The Engineer's Relations to the Public

16. The engineer should endeavor to assist the public to a fair and correct general understanding of engineering matters, to extend the general knowledge of engineering, and to discourage the appearance of untrue, unfair or exaggerated statements on engineering subjects in the press or elsewhere, especially if these statements may lead to, or are made for the purpose of, inducing the public to participate in unworthy enterprises.

17. Technical discussions and criticisms of engineering subjects should not be conducted in the public press, but before engineering societies, or in the technical press.

18. It is desirable that first publication concerning inventions or other engineering advances should not be made through the public press, but before engineering societies or through technical publications.

19. It is unprofessional to give an opinion on a subject without being fully informed as to all the facts relating thereto and as to the purposes for which the information is asked. The opinion should contain a full statement of the conditions under which it applies.

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E. THE ENGINEER'S RELATIONS TO THE ENGINEERING FRATERNITY

20. The engineer should take an interest in and assist his fellow engineers by exchange of general information and experience, by instruction and similar aid, through the engineering societies or by other means. He should endeavor to protect all reputable engineers from misrepresentation.

21. The engineer should take care that credit for engineering work is attributed to those who, so far as his knowledge of the matter goes, are the real authors of such work.

22. An engineer in responsible charge of work should not permit non-technical persons to overrule his engineering judgments on purely engineering grounds.

F. AMENDMENTS

Additions to, or modifications in, this Code may be made by the Board of Directors under the procedure applying to a by-law.

Code of Ethics of American Association of Engineers

ANY code of ethics must be predicated upon the basic principles of truth and honesty. "Whatsoever things are true, whatsoever things are honest," are the things for which engineers must contend.

An engineer may not "go beyond and defraud his brother" by any underhanded act or method. He may not do or say anything which will injure his brother's reputation or his business for the purpose of securing his own advancement or profit. This admonition carries with it no obligation to refrain from telling known and absolute truth about an unworthy brother, as a protection to others; but the truth so told must be such as can be substantiated, and he who tells it must have the courage which will not shrink from the consequence of his telling.

The engineer owes his client allegiance demanding his most conscientious service. But conscientious service to the client must never entail a surrender of personal convictions of truth and right.

An engineer who receives compensation from an employer may not receive gift, commission or remuneration of any kind from a third party with whom he does business for that employer.

An engineer seeking to build up his business may not resort to self-laudation in advertising. He may state briefly the lines of work in which he has had experience, and enumerate responsible positions which he has held and give his references.

An engineer who employs others either in his own service or in that of the client who employs him, should recognize in his relationship to them an obligation of exemplary conduct, of helpfulness and personal interest in those with whom he is thus brought in contact, and he should discharge such obligation tactfully and kindly.

The honor of the profession should be dear to every engineer, and he should remember that his own character and conduct reflect honor, or the reverse upon the profession.

If, then, he so lives that his own honor shall never be smirched by his own act or omission, he will thus maintain the honor of the organization to which he belongs.

A Circular of Advice

Relative to Principles of Professional Practice and The Canons of Ethics [1]

THE AMERICAN INSTITUTE OF ARCHITECTS, seeking to maintain a high standard of practice and conduct on the part of its members as a safeguard of the important financial, technical and esthetic interests entrusted to them, offers the following advice relative to professional practice:

The profession of architecture calls for men of the highest integrity, business

[1] AIA. Document No. 163.

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capacity and artistic ability. The architect is entrusted with financial undertakings in which his honesty of purpose must be above suspicion; he acts as professional adviser to his client and his advice must be absolutely disinterested; he is charged with the exercise of judicial functions as between client and contractors and must act with entire impartiality; he has moral responsibilities to his professional associates and subordinates; finally, he is engaged in a profession which carries with it grave responsibility to the public. These duties and responsibilities cannot be properly discharged unless his motives, conduct, and ability are such as to command respect and confidence.

No set of rules can be framed which will particularize all the duties of the architect in his various relations to his clients, to contractors, to his professional brethren, and to the public. The following principles should, however, govern the conduct of members of the profession and should serve as a guide in circumstances other than those enumerated.

1. On the Architect's Status

The architect's relation to his client is primarily that of professional adviser; this relation continues throughout the entire course of his service. When, however, a contract has been executed between his client and a contractor by the terms of which the architect becomes the official interpreter of its conditions and the judge of its performance, an additional relation is created under which it is incumbent upon the architect to side neither with client nor contractor, but to use his powers under the contract to enforce its faithful performance by both parties. The fact that the architect's payment comes from the client does not invalidate his obligation to act with impartiality to both parties.

2. On Preliminary Drawings and Estimates

The architect at the outset should impress upon the client the importance of sufficient time for the preparation of drawings and specifications. It is the duty of the architect to make or secure preliminary estimates when requested, but he should acquaint the client with their conditional character and inform him that complete and final figures can be had only from complete and final drawings and specifications. If an unconditional limit of cost be imposed before such drawings are made and estimated, the architect must be free to make such adjustments as seem to him necessary. Since the architect should assume no responsibility that may prevent him from giving his client disinterested advice, he should not, by bond or otherwise, guarantee any estimate or contract.

3. On Superintendence and Expert Services

On all work except the simplest, it is to the interest of the owner to employ a superintendent or clerk of the works. In many engineering problems and in certain specialized esthetic problems, it is to his interest to have the services of special experts and the architect should so inform him. The experience and special knowledge of the architect make it to the advantage of the owner that these persons, although paid by the owner, should be selected by the architect under whose direction they are to work.

4. On the Architect's Charges

The Schedule of Charges of the American Institute of Architects is recognized as a proper minimum of payment. The locality or the nature of the work, the quality of services to be rendered, the skill of the practitioner or other circumstances frequently justify a higher charge than that indicated by the Schedule.

5. On Payment for Expert Service

The architect, when retained as an expert, whether in connection with competitions or otherwise, should receive a compensation proportionate to the responsibility and difficulty of the service. No duty of the architect is more exacting than such service, and the honor of the profession is involved in it. Under no circumstances should experts knowingly name prices in competition with each other.

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6. On Selection of Bidders or Contractors

The architect should advise the client in the selection of bidders and in the award of the contract. In advising that none but trustworthy bidders be invited and that the award be made only to contractors who are reliable and competent, the architect protects the interests of his client.

7. On Duties to the Contractor

As the architect decides whether or not the intent of his plans and specifications is properly carried out, he should take special care to see that these drawings and specifications are complete and accurate, and he should never call upon the contractor to make good oversights or errors in them nor attempt to shirk responsibility by indefinite clauses in the contract or specifications.

8. On Engaging in the Building Trades

The architect should not directly or indirectly engage in any of the building trades. If he has any financial interest in any building material or device, he should not specify or use it without the knowledge and approval of his client.

9. On Accepting Commissions or Favors

The architect should not receive any commission or any substantial service from a contractor or from any interested person other than his client.

10. On Encouraging Good Workmanship

The large powers with which the architect is invested should be used with judgment. While he must condemn bad work, he should commend good work. Intelligent initiative on the part of craftsmen and workmen should be recognized and encouraged and the architect should make evident his appreciation of the dignity of the artisan's function.

11. On Offering Services Gratuitously

The seeking out of a possible client and the offering to him of professional services on approval and without compensation, unless warranted by personal or previous business relations, tends to lower the dignity and standing of the profession, and is to be condemned.

12. On Advertising

Publicity of the standards, aims and progress of the profession, both in general and as exemplified by individual achievement, is essential. Advertising of the individual, meaning self-laudatory publicity procured by the person advertised or with his consent, tends to defeat its own ends as to the individual as well as to lower the dignity of the profession, and is to be deplored.

13. On Signing Buildings and Use of Titles

The unobtrusive signature of buildings after completion is desirable.

The placing of the architect's name on a building during construction serves a legitimate purpose for public information, but is to be deplored if done obtrusively for individual publicity.

The use of initials designating membership in the Institute is desirable in all professional relationships, in order to promote a general understanding of the Institute and its standards through a knowledge of its members and their professional activities.

Upon the members devolves the responsibility to associate the symbols of the Institute with acts representative of the highest standards of professional practice.

14. On Competitions

An architect should not take part in a competition as a competitor or juror unless the competition is to be conducted according to the best practice and usage of the profession, as evidenced by its having received the approval of the Institute, nor should he continue to act as professional adviser after it has been determined that the program cannot be so drawn as to receive such approval. When an architect has been authorized to submit sketches for a given project, no other architect should submit sketches for it until the owner has taken definite action on the first sketches, since, as far as the second architect

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is concerned, a competition is thus established. Except as an authorized competitor, an architect may not attempt to secure work for which a competition has been instituted. He may not attempt to influence the award in a competition in which he has submitted drawings. He may not accept the commission to do the workfor which a competition has been instituted if he has acted in an advisory capacity either in drawing the program or in making the award.

15. On Injuring Others

An architect should not falsely or maliciously injure, directly or indirectly, the professional reputation, prospects or business of a fellow architect.

16. On Undertaking the Work of Others

An architect should not undertake a commission while the claim for compensation or damages or both, of an architect previously employed and whose employment has been terminated remains unsatisfied, unless such claim has been referred to arbitration or issue has been joined at law; or unless the architect previously employed neglects to press his claim; nor should he attempt to supplant a fellow architect after definite steps have been taken toward his employment.

When an architect is asked to make alterations of, or additions to a building designed by another, he should bear in mind the artistic rights of the author. When practicable the new design should be submitted to the original designer as a professional courtesy, which will at least invite an opinion upon the proposed changes.

17. On Duties to Students and Draughtsmen

The architect should advise and assist those who intend making architecture their career. If the beginner must get his training solely in the office of an architect, the latter should assist him to the best of his ability by instruction and advice. An architect should urge his draughtsmen to avail themselves of educational opportunities. He should, as far as practicable, give encouragement to all worthy agencies and institutions for architectural education. While a thorough technical preparation is essential for the practice of architecture, architects cannot too strongly insist that it should rest upon a broad foundation of general culture.

18. On Duties to the Public and to Building Authorities

An architect should be mindful of the public welfare and should participate in those movements for public betterment in which his special training and experience qualify him to act. He should not, even under his client's instructions, engage in or encourage any practices contrary to law or hostile to the public interest; for, as he is not obliged to accept a given piece of work, he cannot, by urging that he has but followed his client's instructions, escape the condemnation attaching to his acts. An architect should support all public officials who have charge of building in the rightful performance of their legal duties. He should carefully comply with all building laws and regulations, and if any such appear to him unwise or unfair, he should endeavor to have them altered.

19. On Professional Qualifications

The public has the right to expect that he who bears the title of architect has the knowledge and ability needed for the proper invention, illustration, and supervision of all building operations which he may undertake. Such qualifications alone justify the assumption of the title of architect.

The Canons of Ethics

THE following Canons are adopted by the American Institute of Architects as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally important although not specially mentioned. It should also be noted that the several sections indicate offences of greatly varying degrees of gravity.

It is unprofessional for an architect—

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1. To engage directly or indirectly in any of the building or decorative trades.

2. To guarantee an estimate or contract by bond or otherwise.

3. To accept any commission or substantial service from a contractor or from any interested party other than the owner.

4. To take part in any competition which has not received the approval of the Institute or to continue to act as professional adviser after it has been determined that the program cannot be so drawn as to receive such approval.

5. To attempt in any way, except as a duly authorized competitor, to secure work for which a competition is in progress.

6. To attempt to influence, either directly or indirectly, the award of a competition in which he is a competitor.

7. To accept the commission to do the work for which a competition has been instituted if he has acted in an advisory capacity, either in drawing the program or in making the award.

8. To injure falsely or maliciously, directly or indirectly, the professional reputation, prospects or business of a fellow architect.

9. To undertake a commission while the claim for compensation, or damages, or both, of an architect previously employed and whose employment has been terminated remains unsatisfied, until such claim has been referred to arbitration or issue has been joined at law, or unless the architect previously employed neglects to press his claim.

10. To attempt to supplant a fellow architect after definite steps have been taken toward his employment, *e. g.*, by submitting sketches for a project for which another architect has been authorized to submit sketches.

11. To compete knowingly with a fellow architect for employment on the basis of professional charges.

A Code of Ethics for the Teaching Profession

Adopted by the Pennsylvania State Education Association, December 1920

THIS code is an application of the general principles of ethics to the special obligations, rights, and privileges of the teaching profession.

I. PROFESSIONAL ATTITUDE

The highest obligation of every member of the teaching profession is due to those who are under his professional care.

II. COMPENSATION

The teaching profession should demand, for each of its members, that compensation which will enable him to render the most efficient service. To attain maximum efficiency the compensation must be sufficient to enable him to live upon a scale befitting his place in society, to permit the necessary expenditures for professional improvement, and to make proper provision for those dependent upon him, and for himself in his old age.

III. OPEN-MINDED STUDY OF EDUCATION

Every member of the profession should be a progressive student of education. To this end he should be a thoughtful reader of educational literature, should attend and participate in educational meetings, should engage in such experimentation and collection of data as will test the value of educational theories and aid in the establishment of a scientific basis for educational practice, and should be willing to give to his fellow members the benefits of his professional knowledge and experience.

IV. CRITICISMS OF ASSOCIATES

(a) The motives for all criticisms should be helpfulness and improvement. Adverse criticisms, known or heard, should not be made or repeated except to the one criticized, or to his superior with the full

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expectation that opportunity for explanation will be afforded. On the other hand, when corrupt and dishonorable practices are known to exist they should be fearlessly reported to the proper authorities.

(b) Adverse comments and insinuations in regard to the work of a predecessor or of the teacher of a previous grade are to be condemned.

V. Appointments and Promotions

(a) All appointments, promotions or advancements in salary should be obtained exclusively on merit. To this end, it is proper for the candidate to make his qualifications known to the proper school authorities, either directly or through a teachers' agency.

(b) A teacher should take no steps towards obtaining a specific position until he knows the position is vacant or about to become vacant.

(c) No teacher should secure an offer elsewhere for the sole purpose of using it as a means to obtain an increase of salary on his present position.

(d) Upon accepting appointment in a given district a teacher should notify all other districts to which letters of application have been sent.

(e) Whenever a superintendent is seeking a teacher in another district he should inform the superintendent or the proper officials of the district, but a superintendent's reluctance to part with a teacher should not deprive the teacher of an opportunity for deserved advancement.

VI. Contract Obligations

A teacher should never violate a contract. Unless the consent of the employing body is obtained releasing the obligation, the contract should be fulfilled. On the other hand, when a teacher is offered a better position elsewhere it is against the best interests of the schools to stand in the way of the teacher's advancement by arbitrary insistence upon the terms of a needlessly rigid contract, when the place can be satisfactorily filled.

VII. Democracy in the Development of School Plans

The superintendent should be recognized as the professional leader of the school system. Each member of the system should be given opportunity to collaborate in the solution of professional problems; but when a policy is finally determined, it should be loyally supported by all.

VIII. Relations between Supervisory Officers and Teachers

(a) Coöperation, loyalty, and sincerity should characterize all relations between supervisory officers and teachers.

(b) Each teacher is entitled from time to time to statements of his professionl record, whether favorable or unfavorable, and may properly make requests for such statements. Moreover, every teacher whose reëmployment is not intended should be given timely notice.

(c) A supervisor of class room work should observe the following ethical principles in relation to the teachers whose work he observes professionally.

1. He should express an opinion upon the work observed following each professional visit.
2. He should recommend ways to remove every fault pointed out, and allow reasonable opportunity for improvement.
3. He should not criticize a teacher before other teachers or before pupils.
4. He should just as certainly and just as unfailingly point out the excellences as the faults of the work observed.
5. He should give ample opportunity for conference previous to observation of the teacher's work.

(d) A superintendent or other supervisory officer should be ready and willing at any time to answer official inquiries from prospective employers concerning the qualifications of any teacher under him, and should be willing to write to any interested party, at the request of a teacher, giving a statement of the teacher's professional record under him; but evasive or equivocal letters of recommendation should not be given.

IX. Relations to Parents

(a) Teachers should maintain coöperative relations with parents, and should meet criticism with open mindedness and courtesy.

(b) Teachers should not discuss the

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physical, mental, moral or financial limitations of their pupils in such a way as to embarrass the pupils or parents unnecessarily. Nevertheless they should exercise the utmost candor, as well as tact, in their communications with parents on matters of real importance. Information concerning the home conditions of the pupils should be held in confidence by the teachers.

X. Relations to Publishers and Supply Houses

No member of the profession should act as an agent, or receive a commission, or royalty, or anything else of value, for any books or supplies in the selection of which he exercises official decision.

XI. Teachers' Agencies

The profession should unhesitatingly condemn teachers' agencies that encourage teachers to break their contracts, that work for the appointment or promotion of unqualified teachers, or that make recommendations for positions not known positively to be vacant. Any member of the profession who has knowledge of such action, should report it to the Commission on Professional Ethics.

XII. Loyalty to School Boards

(a) It is the duty of every member of the profession in a school system to recognize the legal authority of the board of directors, and to be loyal to its policies established in accordance therewith.

(b) If, however, the attitude of a school board should clearly and persistently be such as to prevent the members of the profession employed by it from serving the best interests of the pupils, and if repeated efforts to remedy the situation have been without avail, then an appeal should be made to the Commission on Professional Ethics.

XIII. Commission on Professional Ethics

(a) There should be a Commission on Professional Ethics operating under the Pennsylvania State Educational Association. This Commission shall consist of the President of the Association, *ex officio*, and four members of the profession, appointed by the President, with terms of four years each, one term expiring on July first each year.

(b) It shall be the duty of this Commission to study the various problems of professional ethics arising from time to time, to give the inquiring members of the profession its interpretation of the meaning of various principles in this code, to arrange for investigations rendered advisable in connection with this code, to take such action in regard to their findings as may be deemed wise, to make recommendations to the State Association as to amendments or additions to the code, and in general to have oversight of all questions arising in connection with the ethics of the teaching profession within the state.

The Personnel of the Commission for the year ending July 1, 1922:

George Gailey Chambers, *Chairman*, University of Pennsylvania, Phila., Pa.
Charles A. Wagner, *City Superintendent*, Chester, Pa.
Eli M. Rapp, *Superintendent*, Berks County, Reading, Pa.
George Wheeler, *Associate Superintendent*, Philadelphia, Pa.
H. W. Dodd, *ex-officio*, President of the Penna. State Educational Association, Allentown, Pa.

The Oregon Code of Ethics for Journalism

Adopted at the Oregon Newspaper Conference, 1922

"Not only all arts and sciences but all actions directed by choice aim at some good."
Aristotle, Nicomachean Ethics, I. 1.

Preamble

We believe in the teaching of the great ethicists that a general state of happiness and well-being is attainable throughout the world; and that this state is the chief end-in-view of society.

We recognize an instinct in every good man that his utterances and his deeds

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should make a reasonable and continuous contribution toward this ultimate state, in the possibility of which we reiterate our belief, however remote it may now seem.

We believe that men collectively should also follow the principles of practice that guide the ethical individual. For whatever purpose men are associated, we believe they should endeavor to make the reasonable and continuous contribution that distinguishes the ethical man. And all the agencies and instrumentalities employed by men, singly or collectively, should be based upon the best ethical practice of the time, so that the end-in-view of society may thereby be hastened.

Of all these agencies the printed word is most widely diffused and most powerful. The printed word is the single instrument of the profession we represent, and the extent to which it is shaping the thoughts and the conduct of peoples is measureless. We therefore pronounce the ethical responsibility of journalism the greatest of the professional responsibilities, and we desire to accept our responsibility, now and hereafter, to the utmost extent that is right and reasonable in our respective circumstances.

Accordingly we adopt for our guidance the following code, which shall be known as the Oregon Code of Ethics for Journalism.

I. SINCERITY; TRUTH

The foundation of ethical journalism is sincerity. The sincere journalist will be honest alike in his purposes and in his writings. To the best of his capacity to ascertain truth, he will always be truthful. It is his attitude toward truth that distinguishes the ethical from the unethical writer. It is naturally not possible that all writing can be without error; but it can always be without deliberate error. There is no place in journalism for the dissembler; the distorter; the prevaricator; the suppressor; or the dishonest thinker.

The first section of this code therefore provides that we shall be continuously sincere in professional practice; and sincerity as journalists means, for example, that:

1. We will put accuracy above all other considerations in the written word, whether editorial, advertisement, article, or news story.

2. We will interpret accuracy not merely as the absence of actual misstatement, but as the presence of whatever is necessary to prevent the reader from making a false deduction.

3. In an ethical attitude toward truth, we will be open at all times to conviction, for the sincere journalist, while fearless and firm, will never be stubborn; therefore we will never decline to hear and consider new evidence.

4. If new evidence forces a change of opinion, we will be as free in the acknowledgment of the new opinion as in the utterance of the old.

5. We will promote a similar attitude in others toward truth, not asking or permitting employes to write things which as sincere journalists we would not ourselves write.

II. CARE; COMPETENCY; THOROUGHNESS

Inaccuracy in journalism is commonly due more to lack of mental equipment than to wilfulness of attitude. The ill-equipped man cannot be more competent as a journalist than he can as a doctor or engineer. Given an ethical attitude, the contribution that each journalist makes to his community and to society is nearly in ratio to his competency. We regard journalism as a precise and a learned profession, and it is therefore the second part of this code that:

6. By study and inquiry and observation, we will constantly aim to improve ourselves, so that our writings may be more authentic, and of greater perspective, and more conducive to the social good.

7. We will consider it an essential in those we employ that they not merely be of ethical attitude, but reasonably equipped to carry out their ideals.

8. We will make care our devotion in the preparation of statements of fact and in the utterance of opinion.

9. We will advocate in our respective communities the same thoroughness, sound preparation, and pride of craft, that we desire in ourselves, our employes, and our associates.

10. We are accordingly the active enemies of superficiality and pretense.

III. JUSTICE; MERCY; KINDLINESS

Liberty of the press is, by constitution, statute, and custom, greater in the United States than anywhere else in the world. This liberty exists for our press so that the liberty of the whole people may thereby be

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guarded. It so happens that at times the liberty of the press is exercised as license to infringe upon the rights of groups and of individuals: because custom and law have brought about certain immunities, it happens that in haste or zeal or malice or indifference, persons are unjustly dealt by. Yet the freedom of the press should at all times be exercised as the makers of the constitution; and the people themselves through their tolerance, have intended it. The reputations of men and women are sacred in nature and not to be torn down lightly. We therefore pronounce it appropriate to include in this code that:

11. We will not make "privileged utterance" a cloak for unjust attack, or spiteful venting, or carelessness in investigation, in the cases of parties or persons.

12. We will aim to protect, within reason, the rights of individuals mentioned in public documents, regardless of the effect on "good stories" or upon editorial policy.

13. We will deal by all persons alike so far as is humanly possible, not varying from the procedure of any part of this code because of the wealth, influence, or personal situation of the persons concerned, except as hereinafter provided.

14. It shall be one of our canons that mercy and kindliness are legitimate considerations in any phase of journalism; and that if the public or social interest seems to be best conserved by suppression, we may suppress; but the motive in such instances must always be the public or social interest, and not the personal or commercial interest.

15. We will try so to conduct our publication, or to direct our writing, that justice, kindliness, and mercy will characterize our work.

IV. Moderation; Conservatism; Proportion

Since the public takes from the journalist so great a proportion of the evidence upon which it forms its opinions, obviously that evidence should be of high type. The writer who makes his appeal to the passions rather than to the intellect is too often invalid as a purveyor of evidence because his facts are out of perspective. By improper emphasis, by skilful arrangement, or by devices of typography or rhetoric, he causes the formation in the reader's mind of unsound opinion. This practice is quite as improper as and frequently is more harmful than actual prevarication. Through this code we desire to take a position against so-called sensational practice by acceptance of the following canons:

16. We will endeavor to avoid the injustice that springs from hasty conclusion in editorial or reportorial or interpretative practice.

17. We will not overplay news or editorial for the sake of effect when such procedure may lead to false deductions in readers' minds.

18. We will regard accuracy and completeness as more vital than our being the first to print.

19. We will try to observe due proportion in the display of news to the end that inconsequential matter may not seem to take precedence in social importance over news of public significance.

20. We will in all respects in our writing and publishing endeavor to observe moderation and steadiness.

21. Recognizing that the kaleidoscopic changes in news tend to keep the public processes of mind at a superficial level, we will try to maintain a news and an editorial policy that will be less ephemeral in its influence upon social thought.

V. Partisanship; Propaganda

We believe that the public has confidence in the printed word of journalism in proportion as it is able to believe in the competency of journalists and have trust in their motives. Lack of trust in our motives may arise from the suspicion that we shape our writings to suit non-social interests, or that we open our columns to propaganda, or both. Accordingly we adopt the following professional canons:

22. We will resist outside control in every phase of our practice, believing that the best interests of society require intellectual freedom in journalism.

23. We will rise above party and other partisanship in writing and publishing, supporting parties and issues only so far as we sincerely believe them to be in the public interest.

24. We will not permit, unless in exceptional cases, the publishing of news and editorial matter not prepared by ourselves or our staffs, believing that original matter is the best answer to the peril of propaganda.

VI. Public Service and Social Policy

We dispute the maxim sometimes heard that a newspaper should follow its constituency in public morals and policy rather than try to lead it. We do not expect to

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be so far ahead of our time that our policies will be impractical; but we do desire to be abreast of the best thought of the time, and if possible to be its guide. It is not true that a newspaper should be only as advanced in its ethical atmosphere as it conceives the average of its readers to be. No man who is not in ethical advance of the average of his community should be in the profession of journalism. We declare therefore as follows:

25. We will keep our writings and our publications free from unrefinement, except so far as we may sincerely believe publication of sordid details to be for the social good.

26. We will consider all that we write or publish for public consumption in the light of its effect upon social policy, refraining from writing or from publishing if we believe our material to be socially detrimental.

27. We will regard our privilege of writing for publication or publishing for public consumption as an enterprise that is social as well as commercial in character, and therefore will at all times have an eye against doing anything counter to social interest.

28. We believe it an essential part of this policy that we shall not be respecters of persons.

VII. ADVERTISING AND CIRCULATION

We repudiate the principle of "letting the buyer beware." We cannot agree to guarantee advertising, but we assume a definite attitude toward the advertising that we write, solicit, or print. We believe that the same canons of truth and justice should apply in advertising and circulation as we are adopting for news and editorial matter. We therefore agree to the following business principles:

29. We will coöperate with those social interests whose business it is to raise the ethical standard of advertising.

30. We will discourage and bar from our columns advertising which in our belief in intended to deceive the reader in his estimate of what is advertised. (This clause is intended to cover the many phases of fraud, and unfair competition, and the advertising of articles that seem likely to be harmful to the purchaser's morals or health.)

31. We will not advertise our own newspaper or its circulation boastfully, or otherwise, in terms not in harmony with the clauses of this code of ethics. (This is intended to cover misleading statements to the public or to advertisers as to the whole number of copies printed, number of paid-up subscribers, number of street sales, and percentage of local circulation.)

32. We will not make our printing facilities available for the production of advertising which we believe to be socially harmful or fraudulent in its intent.

To the foregoing code we subscribe heartily as a part of our duty to society and of our belief that the salvation of the world can come only through the acceptance and practice by the people of the world of a sound and practical ethical philosophy.

Code of Ethics for Newspapers

Proposed by W. E. Miller of the St. Mary's *Star*
and
Adopted by the Kansas State Editorial Association at the State Convention of the Kansas Editorial Association, March 8, 1910

FOR THE PUBLISHER

In Advertising

Definition.—Advertising is news, or views, of a business or professional enterprise which leads directly to its profits or increased business.

News of the industrial or commercial development of an institution which in no way has a specific bearing upon the merits of its products is not advertising.

Besides news which leads to a profit advertising also includes communications and reports, cards of thanks, etc., over the space of which the Editor has no control. Charges for the latter become more in the nature of a penalty to restrict their publication.

Responsibility.—The authorship of an advertisement should be so plainly stated in the context or at the end that it could not

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avoid catching the attention of the reader before he has left the matter.

Unsigned advertisements in the news columns should either be preceded or followed by the word "advertisement" or its abbreviation.

We hold that the publisher should in no degree be held responsible for the statement of fact or opinion found in an advertisement.[1]

Freedom of Space.—We hold the right of the publisher to become a broker in land, loan, rental and mercantile transactions through his want and advertising columns and condemn any movement of those following such lines to restrict this right of the publisher to the free sale of his space for the purpose of bringing buyer and seller together.

This shall not be construed to warrant the publisher as such in handling the details, terms, etc., of the trade, but merely in safeguarding his freedom in selling his space to bring the buyer and seller together, leaving the bargaining to the principals.

Our advertising is to bring together the buyer and the seller, and we are not concerned whether it is paid for and ordered by the producer, the consumer or a middleman.

Acceding to any other desires on the part of traders is knocking the foundations out from under the advertising business—the freedom of space. We hold that the freedom of space (where the payment is not a question) should only be restricted by the moral decency of the advertising matter.[2]

We hold that the freedom of space denies us the right to sign any contract with a firm which contains any restrictions against the wording of the copy which we may receive from any other firm, even to the mentioning of the goods of the first firm by name.

Compensation.—We condemn the signing of contracts carrying with them the publication of any amount of free reading matter.

We condemn the acceptance of any exchange articles, trade checks, or courtesies in payment for advertising, holding that all advertising should be paid for in cash.

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[1] *Argument.*—I have no objection to practically any method being used by the advertiser to induce the reader to read his advertisement, providing the reader learns before he is through that it is an advertisement. Such methods include using the same type for headings and body as is used in the regular news stories, even wording the beginning of the advertisement around a topic upon which the mind of the public is riveted. But because these have not been marked as advertisements the public has often been made to believe that the expression of some fake in his advertisement was the expression of the editor and they have blindly bitten because of this trust. I have a number of such exhibits here, anyone interested may examine. To use an advertising cross rule is not sufficiently plain to the public; to use different kinds of type for the heading or body butchers the color harmony of the paper. If we would refuse to print an indecent advertisement to protect the morals of the reader, we should, in order to protect the confiding trust of the reader, refuse to print as our own (that is, without an advertisement mark) that a man was great, notable, expert, competent, when we would not say this over our personal signature. The near news nature of an advertisement makes its offense in this matter more serious. Politicians recognize our weakness in this respect and will pay hundreds of dollars to have stories printed provided we make sure that they appear as news stories. Neither they nor the editor would personally sign these, yet the public holds the editor responsible.

The only method which preserves the artistic form and color of the paper, and gives the reader a certain idea of the authority of that which he reads is to mark it with the word: advertisement. The city of San Francisco has so far recognized the political necessity for such a course that they have incorporated it into law, making it a felony to sell the columns of a newspaper unless they are plainly marked as columns sold. *The "Argument" in the footnotes is that presented by Mr. Miller when placing this code before the Kansas State Editorial Association.—The Editor.*

[2] *Argument:* In the case of many questionable speculative propositions there may be objection to this interpretation of the freedom of space. Upon these I hold that the freedom of space demands that we take the money, print the advertisement, but see that the copy is so worded that the responsibility rests entirely with the promoter. We do not run speculative assurity associations to protect people from their misjudgments.

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e condemn the giving of secret rebates
the established advertising rate as
ished.

ites.—All advertising rates should be
unit per thousand basis and all
rtisers are entitled to a full knowledge
circulation, not only of the quantity
lso of the distribution. Statements
ulation should show the number of
fide subscribers, the number of exchanges, the number of complimentaries, and the number sold to newsdealers, and if possible the locality of distribution, in a general way.

Position.—Position contracts should be charged a fixed percentage above the established rate of the paper, and no contracts should be signed wherein a failure to give the position required results in a greater reduction from the established rate than the position premium is greater than the established rate.

Comparisons.—We consider it beneath the dignity of a publisher to place in his columns statements which make invidious comparisons between the amount of advertising carried or the circulation of his paper and that of his competitor.

Press Agents and Unpaid Advertising.—The specific trade name of an article of commerce, or the name of a merchant, manufacturer or professional man WITH REFERENCE to his wares, products, or labors should not be mentioned in a pure news story.[3]

We condemn as against *moral decency* the publication of any advertisement which will OBVIOUSLY lead to any form of retrogression, such as private medical personals, indecent massage parlor advertisements, private matrimonial advertisements, physician's or hospital's advertisement for the care of private diseases, which carry in them any descriptive or suggestive matter, of the same.

In Circulation

Definition.—Circulation is the entire list of first hand readers of a publication and comprises the paid readers, complimentary readers, exchange readers, and advertising readers.

Compensation.—Subscriptions should be solicited and received only on a basis of cash consideration, the paper and its payment being the only elements to the transaction.

Newsdealers.—The purchase of a quantity of papers should be made outright, allowing for no return of unsold copies.

Gambling.—We condemn the practice of securing subscriptions through the sale or gift of chances.

Complimentaries.—Complimentary copies should not be sent to doctors, lawyers, ministers, postal clerks, police or court officials for news or mailing privileges.

In Estimating

Definition.—Estimating is the science of computing costs. Its conclusion is the price.

Basis.—We do not favor the establishment of a minimum rate card for advertising which would be uniform among publishers, but we do favor a more thorough understanding of the subject of costs and commend to our members the labors of the American Printers Cost Commission of the First International Cost Congress recently held in Chicago. Let us learn our costs and then each establish a rate card based upon our investment and the cost of production, having no consideration for the comparative ability of the advertisers to pay, or the semi-news nature of the advertisement.

Quantity Discount.—We consider it unwise to allow discounts greater than 10 per cent from the rate of first insertion for succeeding insertions.

[3] *Argument.*—Because of our failure to have and maintain a rule of this kind we have fallen a prey to the enterprising press agents, doctors, lawyers, merchants, and manufacturers all over the country. The land, mining, railroad, industrial, exploitation companies through their high salaried press agents work us for columns of matter every year under the guise of news reports. The enterprising doctor and lawyer in your city through courtesies bestowed upon your reporters, make you the instruments for building them up a phenomenal practice and great wealth, leaving you their honied words and social courtesies with which to blot out the red in your bank book. The doctor, aside from the innumerable notices in connection with his cases, especially if they be of the sensational sort, secures a world of advertising through your society columns by his social eminence in the use of his title of distinction.

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News.[4]

Definition.—News is the impartial report of the activities of mind, men and matter which do not offend the moral sensibilities of the more enlightened people.

Lies.—We condemn against truth:

(1) The publication of fake illustrations of men and events of news interest, however marked their similarity, without an accompanying statement that they are not real pictures of the event or person but only suggestive imitations.

(2) The publication of fake interviews made up of the assumed views of an individual, without his consent.

(3) The publication of interviews in quotations unless the exact, approved language of the interviewed be used. When an interview is not an exact quotation it should be obvious in the reading that *only* the thought and impression of the interviewer is being reported.

(4) The issuance of fake news dispatches whether the same have for their purpose the influencing of stock quotations, elections, or the sale of securities or merchandise. Some of the greatest advertising in the world has been stolen through the news columns in the form of dispatches from

[4] Argument in Defense of News Code: This news code is concerned with truth, justice, morality and decency in the presentation of news. The good in journalism so far outweighs the bad that it is a much shorter course to state the negative propositions, leaving us thereby great freedom in the things we may do. Events relating to the political, commercial, industrial and moral welfare of the general body of the people should be brought to the foreground without hard restriction, while events which relate more to individuals should receive a stricter application of the code. In the case of the latter such events as suicides, divorces, rapes should be minimized and given more obscure positions. The rabbles read that which arouses their interest more readily than they read that which concerns their welfare, but the more enlightened do not, or rather they are more interested in that which concerns their welfare, and if we would ever gain any dignity for the professional side of newspaper work, we must cater to the latter class.

We have offended by publishing all of the scandalous details of the divorces and the fall of men holding high places of trust—exploiting the criminality of criminals. The offenses of our yellow type were such during the Thaw trial that the President, for the sake of moral decency, overstepped his power and by the mere force of his personality and position denied the right of the mail to papers containing verbatim reports of that case.

During the time of the National Peace Congress in Chicago, about one of twenty dailies gave it a big head on the first page, while the others gave it brief or rear page notice, while at the same time they were forging to the first positions embezzlements, murders, social scandals, divorces and war dope on the relations between Germany and England, aiding in the unconscious movement to draw these two great nations into open hostilities. Let us cease to publish in piquant detail the suicides, murders, divorces or scandalous happenings, for imitation, emulation and suggetion creep with fearful force into the emotional natures of those who delight in such reading.

Let us spend more time in searching for and exploiting the virtues of men in their relations to themselves, their fellow men and their Creator.

In the language of President Hopkins of Williams college, "The enormous gain in the ratio of crime to the population is beyond question owing largely to the increased publication of the details of beastial crimes. These realistic descriptions constitute the suggestions in the technical sense of the word which act upon the half normal, undeveloped natures of the multitudes. The theory of suggestion as an element in criminal activity has long been admitted by all students of crime and criminals."

It has been said that the publication of crimes and misdeeds of men and women has afforded the public a knowledge of the evils existing in our social system, which being revolting to their sensibilities has resulted in corrective measures. This is the first of two strong arguments against my theory which I will answer briefly. The stories of crimes and misdeeds are devoured by those anxious for maudlin sentiment with a consequent depravity in their natures, natures which in the first place need not a great deal to make them like unto their mental associates. One who has an ideal thoroughly set in his mind to investigate evils with the purpose of devising their remedy may witness them without moral injury, but the indifferent witness them with the result of arousing the latent evils in their own natures. A physician having before him the desire to correct the ills of health may view the nude human form without ill suggestion; the artist with the ideal of portraying perfection in form may see no ill in what to the unconcerned would be suggestive and productive of injury;

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unscrupulous press agents. Millions have been made on the rise and fall of stock quotations caused by newspaper lies, sent out by designing reporters.

Injustice.—We condemn as against justice:

(1) The practice of reporters making detectives and spies of themselves in their endeavors to investigate the guilt or innocence of those under suspicion.

Reporters should not enter the domain of law in the apprehension of criminals. They should not become a detective or sweating agency for the purpose of furnishing excitement to the readers.

No suspect should have his hope of a just liberty foiled through the great prejudice which the public has formed against him because of the press verdict slyly couched in the news report, even before his arrest.

We should not even by insinuation interpret of facts our conclusions, unless by signature we become personally responsible for them. Exposition, explanation, and interpretation should be left to the field of the expert or specialist with a full consciousness of his personal responsibility.

(2) The publication of the rumors and common gossips or the assumptions of a reporter relative to a suspect pending his arrest or the final culmination of his trial. A staff of reporters is not a detective agency, and the right of a suspect to a fair

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the priest in the confessional, having before his mind the ideal of soul perfection, sees no ill in the narration of the immoral conduct of another, but with the purposeless and idealless onlooker any of these afford a most dangerous source of depraving temptation. A sufficient number of learned, honest and patriotic lawyers, jurists, doctors, and ministers and editors will know all that is necessary to know of the baser evils of the day to formulate programs for their improvement without the danger of opening this knowledge to the general public. Their conclusions and statistical summaries will be sufficient to crystallize public sentiment to the proper remedy without the publication of the details.

Again it is said that those who do not fear the Law, who do not fear God, do fear publicity, hence our obligation to publish the salacious details of the misdeeds of moral perverts—that they would fear the public shame. One word will settle this. That individual who is so devoid of any enlightened conscience as to respect neither religious sentiment nor the hand of the law, most certainly does not care a rap for the opinion of the general public, and as for uncovering any mask under which he has been living, any man who is very heavily steeped in vice is known as such to his own acquaintances.

The police of this city of Wichita recently stopped the Emmett Dalton moving picture show from reproducing the Dalton raid at Coffeyville, and they based their action on the ground that the pictures are of a kind to impair the morals of susceptible youths. Their action was commended by our press, while our news columns were picturing with equal piquancy the details of the crimes and misdeeds of the day.

Frederick Peterson in *Colliers* for September 1906 says, "Investigation seems to show that the circulation of the newspaper increases the lower it descends in the scale of immorality. These newspapers represent in the domain of culture and enlightenment the mob spirit, a vast impersonal, delirious, anarchic, degenerating force. And it is this force which, acting upon the minds of the masses, sways them irresistibly in its own direction, making chaos where there should be order, familiarising them with crime, presenting the worst features of human life for their emulation, and imitation, and working insidiously by suggestion to induce in them noxious thoughts which often lead to harmful deeds."

In the language of Wm. Smithers, of the American Academy of Political and Social Science: "We are all criminals; we must say none of us are perfect. There is a world of savagery in us all, underneath the veneer of civilization; that is why we should abstain from saying vengeful things about other criminals. It calls up the savagery within us and incites it in others. That is why it is an evil thing for newspapers to publish the details of crime: it ought to be prohibited as the details of executions are prohibited in certain states."

The elements of sympathy, indignation, terror and awe in human nature are played upon by the publishers with a craze for circulation. As morbid reading makes circulation and circulation makes advertising, the life blood of today's newspaper comes in a great measure from morbidity. Divided, we are compelled to do it, or our competitor will reap the harvest. United upon a common ideal of newspaper ethics, the public can discriminate, and they will enable us to thrive, and honor us for our ideals, whilst otherwise ere long the hand of the law will crush our abuses and with the crushing take many of our essential liberties.

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and impartial trial is often confounded by a reporter's practice of printing every ill-founded rumor of which he gets wind.

Indecencies.—Classification: for the sake of clearness and order crimes with which we will be concerned may be divided into those which offend against the PUBLIC TRUST (such as bribery, defalcation or embezzlement by a public official); those which offend against PRIVATE INSTITUTIONS or EMPLOYERS (which are also often defalcations and betrayals of confidence); and crimes which offend against PRIVATE MORALITY most often centering around the family relation.

(1) In dealing with the suspicions against PUBLIC OFFICIALS or trustees we urge that ONLY FACTS put in their TRUE RELATION and records be used in the news reports.

No presumption or conclusion of the reporter should be allowed to enter, even though it has all the elements of a correct conclusion.

Conclusions and presumptions should be placed in interviews with the identity of their author easily apparent.

If an editor desires to draw a conclusion on the case let him sign it. Do not hide behind the impersonality of the paper with your personal opinions.

(2) In dealing with the suspicions against agents of private institutions facts alone put in their true relation should again be used.

But in this class of stories suspicions and conclusions should be confined to those of the parties directly interested, and no statement of one party to the affair reflecting upon another should be published without at the same time publishing a statement of the accused relative thereto.

The comment of those not directly involved should not be published previous to the arrest or pending the trial.

(3) In dealing with the offenses against private morality we should refuse to print any record of the matter, however true, until the warrant has been filed or the arrest made, and even then our report should contain only an epitome of the charges by the plaintiff and the answers by the defendant, preferably secured from their respective attorneys.

No society gossips or scandals, however true, should ever be published concerning such cases.

However prominent the principals, offenses against private morality should never receive *first page position* and their details should be eliminated as much as possible.

Certain crimes against private morality which are revolting to our finer sensibilities should be ignored entirely; however, in the event of their having become public with harmful exaggerations we may make an elementary statement, couched in the least suggestive laguage.

In no case should the reckless daring of the suspect be lionized.

(4) Except when the suspect has escaped his picture should never be printed.

FOR THE EDITOR

Views

Definition.—Views are the impressions, beliefs, or opinions which are published in a paper, whether from the editorial staffs of the same, outside contributors or secured interviews.

A Distinction.—We hold that whenever a publication confines the bulk of its views to any particular line of thought, class of views, or side of a mooted question, it becomes to that extent a class publication, and inasmuch ceases to be a newspaper.

An Explanation.—You will note by our definition of news that it is the impartial portrayal of the decent activities of mind, men and matter. This definition applied to class publications would be changed by replacing the word IMPARTIAL with the word PARTIAL.

In this section we will deal with IMPARTIALITY in the presentation of the decent activities of the mind of the community—with the views or editorial policy of a paper.

Responsibility.—Whereas a view or conclusion is the product of some mind or minds, and whereas the value and significance of a view is dependent upon the known merit of its author or authors, the reader is entitled and has the right to know the personal identity of the author, whether by the signature in a communica-

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tion, the statement of the reporter in an interview or the caption in a special article and *the paper as such* should in no wise become an advocate.[5]

Influence (editorial).—We should avoid permitting large institutions or persons to own stock in or make loans to our publishing business if we have reasonable grounds to believe that their interests would be

[5] *Explanation and Argument.*—In presenting the activities of men and matter we should have regard for truth, regard for justice, regard for decency, while in the presentation of the activities of mind we should have regard for fairness, for impartiality—ours is a mission of presentation rather than one of formation. If a publication is a newspaper this fact should be stated in a conspicuous place; if a class publication it should state the line of thought it pretends to portray or defend.

There are a number of reasons for impartiality in presenting views, and its consequent absence of an editorial policy for NEWS papers. Facts must be the foundation for all opinion. In social economics some agency must have the exclusive duty of providing the facts in their true relation. In the fitness of things this is the duty of the news press.

It is not probable that facts would all be printed in their true relation if their portrayers possessed motives for placing them in an untrue relation. Few men would lie outright, but to sustain their own views many men will convey an untruth by juggled arrangement of the relation of facts.

The presence in our country of a press devoted to the presentation of facts in their true relation is vitally essential to our political, economic, social and moral welfare. Hence when the intrusion of any notice would tend to generally disturb the presentation of facts in their true relation, we should repell the motive.

To sustain our personal views, the views of our advertisers, those of our political and financial friends, has often been the motive which disturbed our proper presentation of facts and views in their true relation. This motive may be called the editorial policy. If we did not have an editorial policy to sustain, large advertising, financial, political, and social interests to sustain, we would cease to have a serious motive for distorting the true relation of facts and the free relation of views.

Without gunpowder that is dry, armies cannot win.

Without truth of fact unencumbered by the false impression of untrue relations, social, economic and moral enlightenment must come to a dead standstill. Other things are needed, it is true, such as correct principles, but a first essential is facts, properly related. This is the mission of the news press—to secure it, let us cease to have editorial policies for the news press and demand that if a publisher wishes to run a partisan, or class organ, that he state the party or class of thought he pretends to defend, in a conspicuous place, that the reader may season his statements of fact and opinion with the motive which would underlie their presentation. We haven't the slightest objection to an editor running a partisan paper but he should make his partisanship known.

The elimination of the editorial policy would turn our attention to the views of our community. In a government by the people a prime essential is a free press. If the people have a free press and no ideas that essential becomes worthless. If you accustom the people to the habit of turning to the press for their ideas it soon becomes a government by the press, and of course for those who control the press.

If we permit our publishing institutions the privilege of having editorial opinions, our advertisers who control so much of our incomes will control our columns, and business is the least competent to create public opinion upon a public question, for it has become so habituated to measuring everything by its profit earning capacity that it can seldom consider a proposition except through the lens of its own special interest. And too often our advertisers and financial backers do demand this privilege, cautiously, 'tis true, but nevertheless firmly.

Strong editors have battled against this tendency for years but the people on the outside cannot appreciate what a decided stand otherwise really good and worthy men will take against an editor who is also good and worthy, because he does not agree with them upon public questions and men.

We boast of a free press—the most vigorous censorship in the world is the censorship which the business of the large advertisers have over our columns.

A lawyer would be disbarred if he contracted to sell his knowledge of law to one client and at the same time accepted a fee from the second party to the case. A newspaper in its analysis is a contract of an editor to sell his knowledge of his field to his subscribers; and his acceptance of a fee by any one whose interests are affected by the presentation of such knowledge is a contradiction of his obligation, with the result that the client with the largest fee gets the best of his service.

Such a practice would disbar a lawyer and the same principle of fair play which it violates

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seriously affected by any other than a true presentation of all news and a free willingness to present every possible point of view under signature or interview.

Influence (reportorial).—No reporter should be retained who accepts any courtesies, unusual favors, opportunities for self gain, or side employment from any factors whose interests would be affected

in law it violates in the case of the editor. We should either run an advertising paper and acknowledge that our viewpoint is that of the advertisers or we should run a newspaper and make good our contract with our subscribers.

If we run a newspaper and receive the bulk of our income from our advertisers our success becomes vitally dependent upon that of the big advertiser and we voice what suits his interests to increase our income. Now when the interests of the advertiser and the readers are in harmony, no mischief is done, but when they conflict is where the wedge begins to enter into the violation of our contracts with the reader.

Charles Russell says: "No newspaper of standing would venture to print any matter condemned by business, nor fail to print any matter, though sometimes very ill-founded, that business required to have printed."

Realizing that winning patronage and exploiting one's convictions of conscience do not mix with success, let us publish papers without a partisan or editorial policy, but extending every possible latitude and encouragement to all classes of people to voice all decent opinions.

Let us not formulate legislation, conduct campaigns for public men or measures or organize movements.

Business will entertain a desire (to which it knows the sensitive editor will respond) for a sentiment which, were they made personally responsible, they would not permit for a moment.

The night riders of Kentucky will do when their identity is unknown that which their own sense of shame would forbid were it otherwise.

Some tell us that we should stand for the right of the masses even though it does oppose the interests of our greatest patrons. They say that heroes and patriots sacrificed wealth and honor for truth and justice. This is not generally true. At best they sacrificed but the opportunities for wealth and honor. Power, wealth and fame never tasted cannot be a sacrifice.

But the metropolitan publisher of today, with his millions invested, with his years of toil invested, with his thousands borrowed upon a business worth based on its earning capacity, with his daily expense bill running into the thousands, with financial, social and political bankruptcy staring him in the face whenever he contemplates a policy of justice to, or sympathy for the unorganized masses, upon a matter which goes contrary to the interests of his big business patrons, is tempting a sacrifice of that which he has already tasted, wealth, power and fame, and though such a course would not lead to the guillotine, it would practically lead to a repudiation of his debts, which would in itself be a moral crime, for self preservation is the first law of nature.

If you can't drink whiskey without getting drunk don't drink it at all. If your paper as an impersonal institution can't express an opinion from your free and enlightened conscience, don't express one at all. Make it a business institution dealing in the news and opinions of others.

There is another and quite as powerful reason. No man knows nor understands all things. No staff of news editors are competent to pass upon all questions of public interest. To enlighten the public upon mooted questions, secure the expressions of specialists, and make them personally responsible for the same.

We do not have the sluggard to fear, it is the eminently respectable business and professional men who through subtle suggestion, conscious of the power they hold over our welfare, compel us to echo the ideas which are theirs. Men of affairs expect and get special favors, and the corrupt politician is maintained in power through the exchange of these favors, as business men need favors of the legislature also.

No better evidence of the decline of the value of our press opinions can be found than many recent cases where city elections have been carried against the united opinion of the press. Press freedom like personal freedom is good, but its permanence like that of the latter is only secured by good moral self-control, hence the necessity of an organized code of ethics. Our great dailies are great impersonal machines—adjuncts of the business and political world. Reënter the personality by extensive interviews requiring all opinion of the staff to be identified by the author. A man so far away from us as Tolstoy, who is a keen observer of affairs, tells us there exists in this country a so-called free press, but it is only apparent, for the whole press is controlled by wealthy persons admitting of no advancement for the plainest people.

Let opinions be as free as the air we breathe. Jefferson tells us that truth is great and will prevail if left to herself, she is the proper and sufficient antagonist of error, and has nothing to

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by the manner in which his reports are made.[6]

Deception.—We should not allow the presumed knowledge on the part of the interviewed that we are newspaper men to permit us to quote them without their explicit permission, but where such knowledge is certain we insist upon our right to print the views unless directly forbidden.

Faith with Interviewed.—An interview or statement should not be displayed previous to its publication without the permission of the author.

Bounds of Publicity.—A man's name and portrait are his private property and the point where they cease to be private and become public should be defined for our association.

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fear from the conflict unless by HUMAN INTERPOSITION disarmed of her natural weapons —free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them. The theory of a free press demands the liberty to know and to utter according to conscience, and it should be our duty to restrict that utterance to the conscience. We have a free will to do good or evil; if we do not do good a power greater than ourselves will destroy this freedom and its possessor.

My proposal that every view have the personal identity of its owner apparent and that the paper as an institution should not pretend to have that which no impersonal thing could have —views, emphasis, responsibility and impartiality in presenting the activities of mind.

"There is a tendency," says John J. Hamilton, "always for existing institutions, good and bad, to own the press and control its utterances. New ideas, valuable as well as visionary, have difficulty in getting a hearing; yet it is to the interest of society that they have free vent—the valuable ones so that they may be adopted and the visionary ones so that they may find expression and lose their explosive force.

As generations are added to the history of newspaper making we must at times rescue our freedom of expression from the subtle encroachments of the power of wealth, of law, of finance and of commerce. You may say that such a practice as I would make common to the newspapers, would make the expression, public opinion, a synonym for chaos. Well, let us abhor a crystallized public opinion for is not such a condition an evidence of intellectual stupidity. Let the news press be the battle ground, the arena, of the ideas of the people, leaving to the class publications the work of proclaiming or defending any particular set of ideas.

[6] *Note.*—The larger perspective and experience of men of affairs would make of them a wiser influence upon the policy of a paper were it not that their own interests so often run contrary to the interests of the great unorganized masses. It is not a matter of intelligence with the masses—we admit in general the superior wisdom of great industrial, financial and commercial giants who have come from the ground up, but deny their proper interest and sympathy as a potent factor in moulding the policy of a paper.

Declaration of Principles and Code of Practice

Adopted by the Missouri Press Association at Columbia, Missouri, May 27, 1921

PREAMBLE

IN America, where the stability of the government rests upon the approval of the people, it is essential that newspapers, the medium through which the people draw their information, be developed to a high point of efficiency, stability, impartiality and integrity. The future of the republic depends on the maintenance of a high standard among Journalists. Such a standard cannot be maintained unless the motives and conduct of the members of our profession are such as merit approval and confidence.

The profession of Journalism is entitled to stand side by side with the other learned professions and is, far more than any other, interwoven with the lines of public service. The Journalist can not consider this profession rightly unless he recognizes his obligation to the public. A newspaper does not belong solely to its owner and is not fulfilling its highest functions if devoted selfishly. Therefore the Missouri Press Association presents the following principles as a general guide, not as a set form of rules, for the practice of Journalism.

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EDITORIAL

We declare as a fundamental principle that Truth is the basis of all correct Journalism. To go beyond the truth, either in headline or text, is subversive of good Journalism. To suppress the truth, when it properly belongs to the public, is a betrayal of public faith.

Editorial comment should always be fair and just and not controlled by business or political expediency. Nothing should be printed editorially which the writer will not readily acknowledge as his own in public.

Control of news or comment for business considerations is not worthy of a newspaper. The news should be covered, written and interpreted wholly and at all times in the interest of the public. Advertisers have no claim on newspaper favor except in their capacity as readers and as members of the community.

No person who controls the policy of a newspaper should at the same time hold office or have affiliations, the duties of which conflict with the public service that his newspaper should render.

ADVERTISING

It is not good ethics nor good business to accept advertisements that are dishonest, deceptive or misleading. Concerns or individuals who want to use your columns to sell questionable stocks or anything else which promises great returns for small investment should always be investigated. Our readers should be protected from advertising sharks. Rates should be fixed at a figure which will yield a profit and never cut. The reader deserves a square deal and the advertiser the same kind of treatment.

Advertising disguised as news or editorial should not be accepted. Political advertising especially should show at a glance that it is advertising. It is just as bad to be bribed by the promise of political patronage as to be bribed by political cash.

To tear down a competitor in order to build up one's self is not good business, nor is it ethical. Newspaper controversies should never enter newspaper columns. Good business demands the same treatment to a competitor that one would like for a competitor to give to one's self. Create new business rather than try to take away that of another.

Advertising should never be demanded from a customer simply because he has given it to another paper. Merit, product and service should be the standard.

SUBSCRIPTION

The claiming of more subscribers than are actually on the paid list in order to secure larger advertising prices is obtaining money under false pretenses. The advertiser is entitled to know just what he is getting for his money, just what the newspaper is selling to him. Subscription lists made up at nominal prices or secured by means of premiums or contests are to be strictly avoided.

OUR CODE:

In every line of journalistic endeavor we recognize and proclaim our obligation to the public, our duty to regard always the truth, to deal justly and walk humbly before the gospel of unselfish service.

Creed of the Industrial Press

Adopted by the Federation of Trade Press Associations in 1913

1. We believe the basic principle on which every trade paper should build is SERVICE—service to readers and service to advertisers, in a way to promote the welfare of the general public.

2. We believe in TRUTH as applied to editorial, news, and advertising columns.

3. We believe in the utmost frankness regarding circulation.

4. We believe the highest efficiency of the business press of America can be secured through CIRCULATIONS OF QUALITY rather than of QUANTITY—the character, and not mere numbers, should be the cri-

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terion by which the value of a publication should be judged.

5. We believe in coöperation with all those movements in the advertising, printing, publishing, and merchandising fields which make for business and social betterment.

6. We believe that the best interests of the manufacturers, the business press, and consumers can be advanced through a greater interchange of facts regarding merchandise and merchandising, and to this end invite coöperation by manufacturers and consumers.

7. We believe that the logical medium to carry the message of the manufacturer directly to the distributor and the user is the business press.

8. We believe that while many advertising campaigns may profitably employ newspapers, magazines, outdoor displays, etc., no well-rounded campaign seeking to interest the consumer or user is complete without the business press.

9. We believe in coöperation with all interests which are engaged in creative advertising work.

10. We believe that business papers can best serve their trades, industries, or professions by being leaders of thought; by keeping their editorial columns independent of the counting-room, unbiased and unafraid; by keeping their news columns free from paid reading notices and puffery of all kinds; by refusing to print any advertisement which is misleading or which does not measure up to the highest standards of business integrity.

Standards of Practice for Business Papers

Adopted by American Business Papers, Incorporated, in 1916

The publisher of a business paper should dedicate his best efforts to the cause of business and social service, and to this end should pledge himself:

First: To consider first the interests of the subscriber.

Second: To subscribe to and work for truth and honesty in all departments.

Third: To eliminate, so far as possible, his personal opinions from his news columns, but to be a leader of thought in his editorial columns and to make his criticisms constructive.

Fourth: To refuse to publish puffs, free reading notices, or paid write-ups; to keep his reading columns independent of advertising considerations, and to measure all news by this standard: "Is it real news?"

Fifth: To decline any advertisement which has a tendency to mislead or which does not confirm to business integrity.

Sixth: To solicit subscriptions and advertising solely on the merits of the publication.

Seventh: To supply advertisers with full information regarding character and extent of circulation, including detailed circulation statements, subject to proper and authentic verification.

Eighth: To coöperate with all organizations and individuals engaged in creative advertising work.

Ninth: To avoid unfair competition.

Tenth: To determine what is the highest and largest function of the field which he serves, and then to strive in every legitimate way to promote that function.

Standards of Editorial Practice

Adopted by the Editorial Conference of the New York Business Publishers Association, June 17, 1921

The editor of a business paper should dedicate his best efforts to the advancement of the industry which his paper represents in all ways consistent with the public welfare, as well as to measures of public service, and to this end should pledge himself:

1. To consider first the interests of the subscriber.

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2. To work for truth and honesty in all departments of his paper.

3. To publish in an impartial way, free from personal opinion, the news of the industry in which the paper circulates.

4. To disregard advertising considerations in the editorial conduct of his paper.

5. To be a leader of thought in his editorial columns and to make his criticisms constructive, with the object of bringing his industry to higher levels of thought and practice and to a greater measure of public service.

6. To support in his columns such worthy measures of public interest as their importance justifies and the space available permits.

7. To give proper credit for articles taken from other publications, and to avoid unfair practices in competition with them.

Standards of Practice of the British Association of Trade and Technical Journals[1]

Every trade or technical journal should be a live newspaper, vigorously promoting the business interests of its readers and its advertisers.

Every business paper must justify its existence by the quality of its news and technical service.

Frankness and independence should dominate our editorial pages; all articles, or reviews or contributions which are not strictly justified by their interest and value to readers, and all paid and conditional notices, should be rigidly excluded.

All circulation statements should be honest, and quality of circulation and editorial character should be the leading criteria of value.

Honesty should dominate our advertising pages; in justice to readers and fair trading advertisers, all announcements of a doubtful or misleading character should be excluded.

Advertising space should be bought and sold on precisely the same basis as other commodities, *i.e.* on value for money.

Coöperation is desirable with all interests which are concerned with the extension of business publicity, and with improving its power and efficiency.

By pledging ourselves to these principles we are adopting a standard which is good, which is dignified, which is lasting. We are giving to our public the best possible assurance of honest and effective service.

[1] Reprinted from *Printers' Ink*, May 30, 1918.

The Code of Ethics for Accountants

Adopted by the American Institute of Accountants in 1916

1. A firm or partnership, all the individual members of which are members of the Institute (or in part members and in part associates, provided all the members of the firm are either members or associates), may describe itself as "Members of the American Institute of Accountants," but a firm or partnership, all the individual members of which are not members of the Institute (or in part members and in part associates), or an individual practising under a style denoting a partnership when in fact there be no partner or partners, or a corporation or an individual or individuals practising under a style denoting a corporate organization, shall not use the designation, "Members (or Associates) of the American Institute of Accountants."

2. The preparation and certification of exhibits, statements, schedules or other forms of accountancy work, containing an essential misstatement of fact or omission therefrom of such a fact as would amount to an essential misstatement, or a failure to put prospective investors on notice in respect of an essential or material fact not specifically shown in the balance-sheet itself, shall be *ipso facto* cause for expulsion

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or for such other discipline as the Council may impose upon proper presentation of proof that such misstatement was either wilful or the result of such gross negligence as to be inexcusable.

3. No member shall allow any person to practise in his name as a public accountant who is not member of the Institute or in partnership with him or in his employ on a salary.

4. No member shall directly or indirectly allow or agree to allow a commission, brokerage or other participation by the laity in the fees or profits of his professional work; nor shall he accept directly or indirectly from the laity any commission, brokerage or other participation for professional or commercial business turned over to others as an incident of his service to clients.

5. No member shall engage in any business or occupation conjointly with that of a public accountant, which in the opinion of the Executive Committee or of the Council is incompatible or inconsistent therewith.

6. No member shall certify to any accounts, exhibits, statements, schedules or other forms of accountancy work which have not been verified entirely under the supervision of himself, a member of his firm, one of his staff, a member of this institute or a member of a similar association of good standing in foreign countries which has been approved by the Council.

7. No member shall take part in any effort to secure the enactment or amendment of any state or federal law or of any regulation of any governmental or civic body, affecting the practice of the profession, without giving immediate notice thereof to the Secretary of the Institute, who in turn shall at once advise the Executive Committee or the Council.

8. No member shall directly or indirectly solicit the clients or encroach upon the business of another member, but it is the right of any member to give proper service and advice to those asking such service or advice.

9. For a period not exceeding two years after notice by the Committee on Ethical Publicity no member or associate shall be permitted to distribute circulars or other instruments of publicity without the consent and approval of said committee.

10. No member shall directly or indirectly offer employment to an employe of a fellow member without first informing said fellow member of his intent. This rule shall not be construed so as to inhibit negotiations with anyone who of his own initiative or in response to public advertisement shall apply to a member for employment.

11. No member shall render professional service, the anticipated fee for which shall be contingent upon his findings and results thereof.

Canons of Commercial Ethics

Adopted by the National Association of Credit Men

Canon No. 1.—It is improper for a business man to participate with a lawyer in the doing of an act that would be improper and unprofessional for the lawyer to do.

Canon No. 2.—It undermines the integrity of business for business men to support lawyers who indulge in unprofessional practices. The lawyer who will do wrong things for ONE business man injures ALL business men. He not only injures his profession, but he is a menace to the business community.

Canon No. 3.—To punish and expose the guilty is one thing; to help the unfortunate but innocent debtor to rise is another; but both duties are equally important, for both duties make for a higher moral standard of action on the part of business men.

Canon No. 4.—In times of trouble, the unfortunate business man has the right to appeal to his fellow business men for advice and assistance. Selfish interests must be subordinated in such a case, and all must coöperate to help. If the debtor's assets are to be administered, all creditors must join in coöperating. To fail in such

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a case is to fall below the best standards of commercial and association ethics.

Canon No. 5.—The pledged word upon which another relies is sacred among business gentlemen. The order for a bill of goods upon which the seller relies is the pledged word of a business man. No gentleman in business, without a reason that should be satisfactory to the seller, may cancel an order. He would not ask to be relieved of his obligation upon a note or check, and his contracts of purchase and sale should be equally binding. The technical defense that he has not bound himself in writing may avail him in the courts of law, but not of business ethics.

Canon No. 6.—Terms of sale as a part of a contract touching both net and discount maturity, are for buyer and seller alike binding and mutual, unless modified by previous or concurrent mutual agreement.

No business gentleman may, in the performance of his contracts, seek small or petty advantage, or throw the burden of a mistake in judgment upon another, but must keep his word as good as his bond, and when entering into a contract of sale faithfully observe the terms, and thus redeem the assumed promise.

Canon No. 7.—It is always improper for one occupying a fiduciary position to make a secret personal profit therefrom. A member of a creditors' committee, for example, may not, without freely disclosing the fact, receive any compensation for his services, for such practices lead to secret preferences and tend to destroy the confidence of business men in each other. "No man can serve two masters."

Canon No. 8.—The stability of commerce and credits rests upon honorable methods and practices of business men in their relations with one another, and it is improper for one creditor to obtain or seek to obtain a preference over other creditors of equal standing from the estate of an insolvent debtor, for in so doing he takes, or endeavors to take, more than his just proportion of the estate and therefore what properly belongs to others.

Canon No. 9.—Coöperation is unity of action, though not necessarily unity of thought. When the administration of an insolvent estate is undertaken by the creditors through friendly instrumentalities, or when, after critical investigation, creditors representing a large majority of the indebtedness advise the acceptance of a composition as representing a fair and just distribution of a debtor's assets, it is uncoöperative and commercially unethical for a creditor to refuse the friendly instrument or the composition arbitrarily and force thereby a form of administration that will be prejudicial and expensive to the interests of everyone concerned.

Canon No. 10.—Our credit system is founded on principles, the underlying elements of which are coöperation and reciprocity in interchange. When ledger and credit information is sought and given in a spirit inspiring mutual confidence, a potent factor for safety in credit granting has been set at work.

The interchange of ledger and credit information cannot fulfill its best and most important purposes unless guarded with equal sense of fairness and honesty by both the credit department that asks for the information and the credit department that furnishes it.

Recognizing that the conferring of a benefit creates an obligation, reciprocity in the interchange of credit information is an indispensable foundation principle; and a credit department seeking information should reciprocate with a statement of its own experience in the expectation of getting the information sought; and a credit department of which information is sought should respond fairly and accurately because the fundamentals of credit interchange have been observed in the manner the request was made of it.

Failure to observe and defend this principle would tend to defeat the binding together of credit grantors for skilful work—a vital principle of the credit system—and make the offending department guilty of an unfair and unethical act.

Canon No. 11.—The foundation principle of our credit structure—cooperation—should dominate and control whenever the financial affairs of a debtor become insolvent or involved, that equality thereby may be assured to the creditors themselves and justice to the debtor.

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The control of any lesser principle produces waste, diffusion of effort and a sacrifice of interests, material and moral, with a separation of creditor and debtor that is offensive to the best laws of credit procedure.

Coöperation and unity save, construct and prevent; therefore, individual action pursued regardless of other interests in such situations, whether secretly or openly expressed by either creditor or debtor, is unwise and unethical.

Canon No. 12.—The healthy expansion of commerce and credits, with due regard to the preservation of their stability and healthfulness, demands an exact honesty in all of the methods and practices upon which they are founded. Advertising is an important feature in business building; it should represent and never misrepresent; it should win reliance and never cover deceit; it should be the true expression of the commodity or the service offered. It must be deemed, therefore, highly improper and unethical for advertisements to be so phrased or expressed as not to present real facts, and either directly or by implication to mislead or deceive. In this department the finest sense of honesty and fairness must be preserved, and the right relations of men with one another in commerce and credits clearly preserved.

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Book Department

CAPES, WILLIAM PARR. *The Modern City and Its Government.* Pp. xv, 250. Price, $5.00. New York: Dutton, 1922.

The author of this book is the Secretary of the New York State Conference of Mayors and Other City Officials. He has brought to its writings the fruits of long experience with municipal problems and close contact with city officials, both in his own state and elsewhere. *The Modern City and Its Government* is perhaps the best practical discussion of municipal organization which has appeared in more than a decade.

Three chapters, or about one-third of the book, are taken up with a discussion of the prevailing types of American city government—the federal, the commission and the commission-manager forms. The last two supply the most comprehensive appraisal of the results of the newer forms of city government which is available in compact form. It is the author's opinion that the newer types of organization have made three valuable contributions to the movement for good city government: the establishment of the short ballot principle, election at large for city councils, and simplification of governmental machinery. While these contributions were made by the commission and commission-manager cities they are capable of application in the traditional federal type of organization.

The author is also strongly of the opinion that citizen interest and efficient personnel are essential to good government and that these are attainable without recourse to radical changes in organization. These views are no longer original, but Mr. Capes sees signs of a strong revival of citizen interest and a tendency of officials to substitute ideals of service for "spoils" as motives in the public service. Citizen interest is making itself effective in the growing number of privately-supported bureaus of municipal research, municipal reference libraries, taxpayers' associations, and similar citizen bodies. That public officials are beginning to take their duties seriously is evidenced by the number of active organizations seriously engaged in a scientific study of municipal problems. Three national organizations with these purposes now exist and leagues of municipalities are at present organized in twenty-five states. The work of such leagues in supplying city officials with the data needed to guide them in their work and to judge of the effectiveness of new and proposed methods is of primary importance, promising, as it does, to put an end to "hit or miss" methods in the administration of city problems.

The volume closes with three chapters dealing with school and financial administration. Fifteen charts illustrating typical forms of municipal organization and a classified bibliography of seven pages add considerably to its value.

LANE W. LANCASTER.

VINOGRADOFF, SIR PAUL. *Outlines of Historical Jurisprudence.* Volume One; Introduction, Tribal Law. Pp. ix, 428. Oxford University Press, 1920.

The study of law is often regarded as a highly specialized study, only remotely related to other intellectual pursuits, and therefore best pursued in cloistered Inns of Court, unconnected with the university atmosphere of an Oxford or Cambridge so unconcerned with the legal thought of the Roman world. Or, to give American color to our representation of the study of law, it is often assumed to be the mastery of an honorable trade which finds its tools in the precedents of judicial decisions, admirable in their time, but not in harmony with the actual life of today. No better corrective of this view, if it really obtains in any law school, could be found than the initial volume of Professor Vinogradoff's *Outlines of Historical Jurisprudence.*

Nearly half the volume is given to an introduction which treats of the relation of jurisprudence to other sciences. Logic is naturally first considered, and it is shown that an excess of abstract dialectics may easily pervert legal rules, an error into which French and continental jurists run more frequently than the more practica-

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English lawyers. The current findings of psychology cannot but influence law and this is no less true when the field is extended to society. Social psychology blends into sociology. The same is true of political science and political economy, particularly of the former. The science of law cannot be isolated from these social sciences, for it is itself a social science and subject to every movement of opinion and to every change in social conditions.

That jurisprudence is not static but subject to periodic changes is shown by the professor's successive chapters upon the rationalists, like Bentham, the nationalists, like Savigny, and the evolutionists, like von Ihering. Each school was the embodiment of the dominant spirit of the period, and each made contribution to a progressive jurisprudence.

After evaluating the legalistic tendencies of the present age the author delves into the remote past for the roots of historical jurisprudence. This he does by the aid of anthropological inquiries collected from all parts of the world. His scheme for the series involves the systematic treatment of the following subjects: 1. Origin in totemistic society, 2. Tribal law, 3. Civic law, 4. Medieval law in its combination as canon and feudal law, 5. Individualistic jurisprudence, and 6. Beginnings of socialistic jurisprudence. The sub-title of the present volume is "Tribal Law" though several chapters belong to the first division of his scheme.

It is strange enough to begin historical jurisprudence with the selection of mates in a period long antedating history. Yet the *patria potestas* of the Roman law is a development from still earlier custom and is the better understood when seen as a stage in the progress of civilization. Out of the patriarchal household grew the joint family, with its expansion into the clan and the tribe. The tribe was a confederation of related clans. Between these clans there was arbitration, just as now international law is a body of rules created by agreement. Criminal and civil procedure began to develop at a time when the element of public compulsion was absent. As in international law today so in tribal law there were incomplete sanctions. Self-help was recognized but regulated. When private execution failed the public sanction or outlawry was resorted to. Closely connected with the patriarchal household and the joint family were succession and inheritance. Of chattels in pre-Christian time the dead man's share was buried or burned with the body, but later the Church was intrusted with this share to spend for the good of his soul. The remaining chattels were capable of equitable division, but a farm was regarded as an organic entity to which personal sharing was not appropriate. Indeed land tenure had its origin in tribal ownership rather than in strictly personal ownership. This tribal ownership developed into communal, out of which grew the open-field system, once universal in Europe, just as this in time was displaced by a more scientific agriculture and more individualistic legal theory. The Roman civil law, German private law, and the English common law all find the key to their understanding in the tribal law so different from the ideal creations of Bentham and Austin.

This work of a cosmopolitan scholar marks a distinct stage of progress from the pioneer work of Professor Main, *Ancient Law*, but it lacks the charm of that classic.

C. H. MAXSON.

FINER, HERMAN. *Foreign Governments at Work.* Pp. 84. Oxford University Press, 1921.

This brief booklet of eighty-four pages aims to give for study classes a summary of the outstanding features of the government of France, Germany and the United States. The author holds that institutions are alike the world over, mainly through imitation. The Declaration of Independence and the movement for political rights which followed, swept the world; everywhere parliaments were formed. So also the great drive for economic democracy has already spread over wide sections in Whitley Councils, Works' Councils and Soviets. With these two standards of political and economic democracy in mind, the author examines briefly the government of each of the countries named. Although it seems well nigh impossible to do so in eighty

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pages, he gives us a fairly intelligible and useful impression of both the mechanics and the spirit of each government. His tone is impartial, his judgment fair and his style interesting. The booklet is by far the best and most useful survey of the subject thus far offered in such brief compass.

HASKINS AND LORD. *Some Problems of the Peace Conference.* Pp. 307. Price, $3.00. Harvard University Press, 1920.

Of all the books relating to the Paris Conference, the volume published by Professors Haskins and Lord gives the clearest insight into the problems confronting the Conference and the difficulties encountered in their solution. Whether dealing with Alsace-Lorraine, the Rhine and the Saar, Poland, Austria, or Hungary, there is evident in every chapter the broad grasp of the thorough historical student, as well as a keen insight into the larger political elements of the situation. No other book gives so clear a view of the difficulties confronting the American Delegation to the Peace Conference in endeavoring to secure an equitable settlement.

JONES, CHESTER LLOYD. *Mexico and Its Reconstruction.* Pp. x, 319. Price, $3.50. New York: D. Appleton & Co., 1921.

The past few years have witnessed a flood of books on Mexico. Of those in English, the discerning reader might count upon the fingers of one hand all that he thought worth while. If he did so, he could hardly omit the present volume. Yet it owes its inception and its subject matter to sources that are often charged with insidious propaganda against the well-being of our southern neighbors.

Some four years ago a prominent oil producer financed a project for a careful study of the "Mexican problem." A foundation thus supported would naturally be termed capitalistic in its leanings, and its work was also hampered by the not unnatural ill-favor shown by the Mexican executives of that day. Yet the men and women who worked under its auspices succeeded in bringing together a mass of valuable material as a result of their researches in libraries and government repositories, from personal interviews, and by means of brief visits to Mexico itself. Some of this would serve as an excellent antidote to better-known partisan investigations, but, unfortunately, much of it has not yet been utilized. The few volumes that have appeared, like the present, show that the promise of the sponsor to give the individual writers perfect freedom to express the truth as they see it has been carried out. It is well to note this fact because in other instances ill considered charges to the contrary have too readily been made.

The content of the present volume is predominantly economic. It is essentially "practical," closely resembling the author's companion book dealing with Carribean lands. Its table of contents shows that he has made excellent use of the resources of the foundation. None of the chapters are general in character, but the first two serve to introduce the others. Three are devoted to the government of the country and as many to its finances. The Mexican laborer is given four, in all of which his economic status is emphasized, and an equal number treat of commerce, transportation and industry. Of those remaining, one deals with colonization, two with the foreigners, one with border problems, past and present (but not those involving to any extent the deeper human elements), and one with the general relations between Mexico and the United States.

The author tells a straightforward story and he is not unduly didactic or distressingly pessimistic. He has no sovereign remedy for Mexico's ills, but he makes clear what many of them are. He presents few conclusions and those largely by indirection. His data will not permit much else. His footnotes and bibliography show a definite purpose to master the details of his subject, and he packs these details into his chapters in surprising abundance. His book will prove a valuable storehouse of information for the phases that he emphasizes, and, within the economic limits that he has set for himself, a welcome guide. A good index and a small map showing the political divisions and productiveness of Mexico add to its usefulness.

ISAAC J. COX.

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WESTERFIELD, R. B. *Banking Principles and Practice.* Pp. xxxii, 1370. In five volumes, not sold separately. Price, $12.00. New York: The Ronald Press Co., 1921.

Most books on banking may be divided into two classes, the first consisting of those which present the theoretical principles of money and banking and the history of banking and currency in the United States prior to the passage of the Federal Reserve Act. Chapters on the chief foreign banking systems are often included because of their bearing on the question of banking reform in the United States. To the business man books of this type have seemed to overemphasize the theoretical and historical aspects of the subject; they have failed to answer for him many practical questions concerning his own relations with the financial organization. The second type has gone to the opposite extreme, and by placing chief emphasis on the practical details of bank operations and accounting, has almost entirely ignored the provision of a background. Books of this type fail to show that our modern banking system is the product of evolution, and that it performs valuable economic services. These five volumes by Professor Westerfield embody an attempt to combine the theoretical with the practical approach in "a comprehensive description of the banking system of the United States," a task impossible to accomplish within the limits of a single volume.

The author aims "to present so much of the historical and genetical background of institutions and practices as will give them a true setting and explain their fundamental nature," and to achieve "an intimate correlation of banking theory and banking practice, giving in the first volume the underlying theory of money, credit, and banking as a prerequisite to an effective presentation in the remaining volumes of the organization and practice of the system as a whole, and of the individual member of that system, and indicating at every opportunity in the treatment of the internal and external operations of a bank the theory underlying the practice." These aims are successfully realized on the whole, though it should be said that many more chapters are devoted to description than to analytical discussion of the economic issues involved in the evolution and present tendencies of our banking system.

The presentation of the theoretical principles of money and banking conforms closely to the traditional treatment, with due recognition, however, of recent criticism of some of the tenets of the older writers on this subject. There are many controverted issues, for instance, the value of government guaranty of bank deposits, upon which the author expresses no definite opinion, contenting himself with a statement of the question and the chief arguments pro and con. At the present time of experiment and change in financial organization, dogmatic assertions are admittedly unjustified and dangerous, but the writer feels that Professor Westerfield has let slip opportunities to educate public opinion by his failure to make definite recommendations in regard to many unsettled problems. For example, the vital question of the discount policy of the Federal Reserve Board is treated so briefly that the reader is not impressed with its direct bearing upon the material well-being of the country.

The second volume is chiefly concerned with the Federal Reserve System, and the remedies it applies to the defects of our old banking structure. The third and fourth volumes describe minutely the internal organization of a bank, and the routine work of the various departments. In the fifth volume there is a complete account of the "foreign division" of a bank and a concentrated treatment of the elements of foreign exchange. In view of our newly awakened national interest in foreign trade and the general ignorance of business men regarding the methods of financing imports and exports, this timely volume fills a real need.

The value of this work to the economist does not lie in any original contributions to the body of accepted theory, or in any new analysis of current problems, but in the immense store of information here gathered together and systematically arranged, which will be as useful to him as to the business man, to whom the appeal of the book

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is primarily directed. For the latter this is both a reference work and a treatise on banking, with enough sound theory to provide that background usually lacking in "practical" books.

It should be noted, in conclusion, that many illuminating charts and graphs are scattered through the volumes, and that much valuable statistical material is incorporated in the text. Reference to any particular topic is made easy by a table of contents and index for each volume in addition to the general index.

MORGAN B. CUSHING.

NICHOLSON, J. SHIELD. *The Revival of Marxism.* Pp. 145. Price, $2.25. New York: E. P. Dutton and Company, 1921.

Revival of socialistic discussion during and since the War has very naturally and properly brought with it a considerable amount of literature on the subject. Two of the most interesting and valuable have been Loria's *Karl Marx* and Nicholson's *The Revival of Marxism.*

Professor Nicholson, after an introductory chapter entitled "Causes of the Revival" utilizes the recent bitter controversy between Nikolai Lenin and Karl Kantsky as a starting point, contrasting the views of these two disciples of Marx. The conservatism of the author inclines him, of course, to the views of Kantsky.

This does not mean, however, any sympathy with socialistic theories, for the bulk of the volume is devoted to a criticism of one after another of the leading Marxian theories—the nature of the proletariat, the State, the two phases of communism, theories of value, profits, wages, etc. The attack on the various theories is well stated, clear and effective. To those familiar with the subject there are no new ideas presented, but this was of course not intended. A conveniently arranged and concisely stated summary of the weaknesses of socialist theory is a valuable addition to the literature of the subject.

One could wish, however, that the subject had been approached a little differently. It is very doubtful if there is anything to be feared from any general acceptance of the orthodox Marxian views. If socialism today is a movement of any significance, it is not because of an unqualified belief in Marx. The leaders of the movement have qualified his doctrine in many ways, and, what is more important, their effectiveness lies largely in their denunciation of capitalistic weaknesses and in their picture of a better organization for the future.

What is greatly needed is a volume that will effectively picture, first, the fact that so-called capitalism is itself a rapidly changing form of organization, and second, show us what promises, if any, the conservatives can give us of a considerable and rapid improvement in our economic welfare. It is the failure of capitalism to picture and enthusiastically work for a better order that gives strength to many of the attacks against it.

ERNEST M. PATTERSON.

FRIEDMAN, ELISHA M. *International Finance and Its Reorganization.* Pp. xli, 703. Price, $7.00. New York: E. P. Dutton and Company, 1922.

This is the fifth of a valuable series of volumes by the same editor. One of their merits is that the selections used are not presented in a disjointed manner, but are well woven together and thus made much more valuable for private reading and for class use by teachers.

The ground covered is a wide and complex one, but is divided into two main parts: (A) The Effects of the War and (B) Factors in the Financial Reorganization. A little arbitrariness in arrangement can well be ignored under the circumstances. The editor's decision not to include the experiences of too many countries, but to limit himself to the best known and (to us) most important—England, France and Germany—is to be commended.

Two other features are to be noted. One is the discussion in the second section, which is on "reorganization," of a series of topics that combine well both current interest and long-run value. This is particularly difficult in a volume that is of immediate importance, for many topics of great interest today will of course be forgotten in a few years. Capital levies, national bankruptcies, cancellation of debts, the

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German indemnity, the recommendations of the Brussels Financial Conference, international loans and the relative importance of New York and London as financial centers are matters of continuing interest. On the other hand, the brief space given to the foreign exchanges is to be commended because of the fact that they are merely barometers of trade.

The second feature to be emphasized is the generous inclusion of historical and theoretical material. This decision also adds both to the present and to the future value of the volume. Many current books are greatly lacking in perspective, and are very soon of little value. This danger has been greatly modified in this instance by the choice of material.

ERNEST M. PATTERSON.

ROBINSON, LOUIS N. *Penology in the United States.* Pp. ix, 344. Price, $3.00. Philadelphia: The John C. Winston Company, 1921.

With the exception of the revision of Wines' *Punishment and Reformation*, there has been no comprehensive study of our penal institutions, so far as I recall, since the original edition of which appeared near nearly thirty years ago. This fact alone would make the present volume worthy of note. Moreover, it is written by a man who has long been a student of crime and who has had practical experience as Chief Probation Officer in Philadelphia for some three years; who has served on a prison commission, and who has already written a book on *The History and Organization of Criminal Statistics in the United States.*

It is a pleasure to discover that the author has shown along with accurate knowledge of past conditions and earlier literature on his subject, a wide breadth of information as to existing institutions and methods and has been able to combine these in an interesting and stimulating survey. He appreciates the difficulties under which prison officials labor and yet is able to criticize. His fairness of view will commend him to all readers.

Beginning with a sketch of the theory of punishment, he passes to the local jail and lock-up and on to the various types of state institutions both for children and adults. He then considers prison labor, the compensation of prisoners, probation and parole, the problems of management and supervision and closes the book with a carefully selected bibliography.

It is impossible here to digest the entire volume but we may indicate the next steps favored by Dr. Robinson.

1. The socializing of our criminal courts, that is, making them, as are our juvenile courts, interested not alone in determining guilt or innocence but in learning what to do with the offender. . . .

2. The further development of probation or some system of indenture, so that every court, instead of only a few, may have this excellent bit of machinery ready at hand to use with those cases for which it is peculiarly suited. . . .

3. The establishment of institutions for special types of offenders. . . .

4. The elimination of county and municipal jails as places of detention for sentenced prisoners.

5. Making easy the transfer from one penal institution to another, and from penal institutions to those commonly known as charitable.

6. The abolition of the death penalty.

7. Making the goal of prison administration the development of character. . . .

Perhaps the most interesting suggestion of the author is that prisons should be under the supervision of the educational department of the state, inasmuch as they are fundamentally educational in character now that we have passed the time when *punishment* as such was the dominant idea in our minds. This idea deserves consideration.

When one recognizes the difficulties caused by the divergent practice in our various states, it is easily seen that it is hard to give a brief and yet accurate survey of the entire country. Whatever our opinion as to the specific suggestions of the author he has placed us all under deep obligation. The book should be read by all who are in any way connected with the treatment of criminals.

CARL KELSEY.

REINSCH, PAUL SAMUEL. *An American Diplomat in China.* Pp. xii, 396. Price, $4.00. New York: Doubleday Page and Company, 1922.

This volume by Dr. Reinsch, who was American Minister at Peking from 1913 to

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1919, will be read with extraordinary interest by all those who have a knowledge of political conditions in the Far East and of Chinese political personalities. It will be of interest to others but it is doubtful whether from its pages they will be able to gain a connected and consistent idea of what happened in China during the years that are covered. It is evident that the volume has been prepared by Dr. Reinsch from his notes, kept from day to day, and, while this method gives a vivacity to some of his pages, it does not yield the definite results that might have been obtained had particular topics been selected and fully treated in separate chapters.

That Dr. Reinsch was an able representative in China of American diplomatic interests there can be no doubt. The reviewer was several times in Peking, for considerable periods of time, while Dr. Reinsch was there, and can testify to the general respect with which he was regarded by the entire diplomatic body. He was also held in high esteem by the Chinese who seemed to have no doubt as to his sincere desire that their country should be justly and even benevolently dealt with by the other powers. It was a great grief to Dr. Reinsch, which he does not hesitate to express, when the American government failed at Paris to support China's plea for the restitution to her of the German rights in Shantung, and this, together with other disappointing acts of his government, led to his resignation in 1919.

In many places there are illuminating comments by Dr. Reinsch upon conditions in China—comments which show his keen powers of analysis and appreciation. These were to be expected of the author of the volume, *Intellectual and Political Currents in the Far East*. But the outstanding impression which one gains from the volume is the ruthlessness with which Japan has pursued her policies in China and in the Far East generally. Dr. Reinsch does not mince words as to this. "The Japanese were ready to take advantage of and to aggravate any weakness which might exist in Chinese social and political life. They would fasten like leeches upon any sore spot," is one of his statements. "The whole course of Japan in China during the Great War alarmed both Chinese and foreigners," is another. "Japanese imperialistic politics with its unconscionably ruthless and underhanded actions and its fundamental lack of every idea of fair play," is still another. To those face to face with what Japanese militarism has been doing to Continental Asia, he says, there is left no doubt of its sinister quality—"Japan herself needs to be delivered from it, for it has used the Japanese people, their art and their civilization, for its own evil ends. More than that, it threatens the peace of the world. If talk of 'a better understanding' presupposes the continuance of such aims and motives as have actuated Japanese political plots during the past few years, it is futile. What is needed is a change of heart."

Following this last considered opinion, Dr. Reinsch reproduces at some length the substance of a memorandum upon which, he says, he based a cabled statement to the President of the United States of China's vital relation to future peace. The reviewer does not remember having before seen, from the pen of an American diplomatic official, an indictment so scathing of another country. It is to be hoped that, with the Washington Conference, there has come to Japan that change of heart which Dr. Reinsch declares to be so necessary.

W. W. WILLOUGHBY.

LINCOLN, EDMOND EARLE. *Problems in Business Finance*. Pp. 1, 525. Price, $5.00. Chicago: A. W. Shaw Company, 1921.

Professor Lincoln has made a noteworthy contribution, not only to the list of textbooks in the field of finance, but also to the literature of the subject. Frankly abandoning the field hitherto occupied by the list of manuals which deal with corporation finance, banking and similar topics, he has addressed himself to the study of the problems of the medium sized and smaller industrial concerns, which constituted, he says, in 1914, 98.6 per cent of the total number of manufacturing concerns in the United States, producing more than 52 per cent of value in products. Professor Lincoln believes that the financ-

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ing of railroads and public utilities, to which might also be added the financing of the larger industrials, present "a reasonable degree of standardization." The financial principles which should govern the management of the smaller manufacturing, trading and financial concerns have not been, in his opinion, sufficiently investigated.

He begins his discussion with a general survey of the field, which summarizes the more important rules of financial management in the launching of the concern, its growth, and its current management. These rules are familiar, indeed almost axiomatic. They have been discussed at length in numerous manuals, a list of which the author furnishes. No attempt at any original contribution is apparently made, and, indeed, this introductory chapter seems to go no further than to suggest the necessity of carefully studying the various manuals which deal intensively with the topics indicated.

Beginning with chapter two, however, we find a long list of problems covering the following topics: financial consideration involved in beginning a business; problems of raising fixed capital; problems of raising working capital; problems of internal financing, and financial aspects of producing and selling; the administration of earnings, and the handling of financial difficulties. Each of these topics is developed by a series of problems which are drawn from the financial experiences of a large number of business men and bankers, more than one hundred and twenty-five different kinds of businesses and industries being represented, and hundreds of separate concerns. Some of these cases are familiar to those who follow the financial news, as, for example, the method of extending the customer ownership of the United Drug Company; the methods of promoting employe ownership; the vicissitudes of the Goodyear Rubber Company; Mr. Ford's recent experiences; the financing of the Export Copper Trade; and the dividend policy of the American Telephone and Telegraph Company. Most of the problems are, however, presented for the first time. A specimen of the author's method is shown in the following problem which deals with the question: Shall Competitors Be Bought up with Surplus Funds?

The Z Cotton Manufacturing Company found itself heavily stocked with raw cotton at the time when sales began to slump. The management, feeling less optimistic than its competitors, began to protect itself against the probable drop in prices by selling its cotton for future delivery, when there seemed to be no market for the finished goods. Accordingly, within a few months, while the competing mills were without orders and had all their resources tied up in inventory bought at top prices, the Z Company had cleared out practically all of its inventory, had a large amount of cash on hand, and was ready to buy raw cotton at the bottom of the market. The president of the Z Company says that several questions having to do with the financial policy of the company are now being considered by his organization:

A. Shall the Z Company cut its prices on cotton cloth to a point where many of its competitors will be forced into bankruptcy?

B. Should the Z Company use some of the surplus funds which it now has to buy out its failing competitors?

C. Assuming that the Z Company is agreeable to purchasing some of the competing mills, provided it can get them cheap, the question is raised, "When is a cotton mill cheap?"

At the present time it would cost two or three times as much to reconstruct a mill as before the war.

(a) Would a mill, therefore, be worth buying if it could be taken over at the pre-war cost of reproduction, less depreciation?

(b) Even if this low figure could be secured, would it be a wise financial policy to buy out competitors?

QUESTIONS.

1. What advice would you give the president of the Z Company on the various questions raised by him?

2. If you do not advise the buying up of competitors, just what would you advise the Z Company to do with its surplus?

3. Do you think it advisable for a concern to follow a "fluctuating" dividend policy, or is it wiser to keep the common stock dividends fairly even from year to year? Does the nature of the business or the extent and character of its ownership affect your decision?

At the end of each of the problems the author presents certain suggestive questions as shown above. These are very general in nature and are calculated to stimulate discussion.

The volume concludes with a statistical

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appendix which is arranged to parallel the chapters in the book in order to assist the student in the solution of the problems presented.

Professor Lincoln modestly confesses the existence of numerous shortcomings in the work and invites criticism. Criticism of a book which covers so extensive a field and develops so much new material, at an expense of time and energy which only those who have done similar work can appreciate, would be ungracious. A suggestion may, however, be ventured.

The problem method has been used in advanced classes in the Wharton School of Finance and Commerce of the University of Pennsylvania for many years. The aim in this work has been to give the student facility in devising methods of accomplishing certain results, rather than to encourage him to pass judgment on the expediency of the various devices employed, which seems to be the general plan on which Professor Lincoln's book has been constructed. For example:

"A public service corporation desires to borrow money to finance purchases of equipment. In the face of certain rigid mortgage restrictions, how can this be accomplished?" Or, "The Supreme Court has ordered a corporation to be dissolved on the ground of violation of the Sherman Anti-Trust Law. How can this dissolution best be accomplished?"

Professor Lincoln's method is, rather, to present the facts, and the methods employed, and then to ask the student to express his opinion as to the strength or weakness of the methods employed, or the justification of the action taken, or the merits of an alternative plan.

The reviewer has had only a limited opportunity to utilize Professor Lincoln's problems. So far as his experience extends, and basing his opinion upon the interest shown by the students in these problems as contrasted with those formerly used, he is inclined to give the preference to those prepared by Professor Lincoln. At the same time, he does not believe that the problems which force the student to devise financial expedience can be disregarded, since, after all, advanced students in these subjects are more likely to be active agents than critics and commentators.

Probably a combination of the two types of problems will, in the long run, be found the most satisfactory.

E. S. MEADE.

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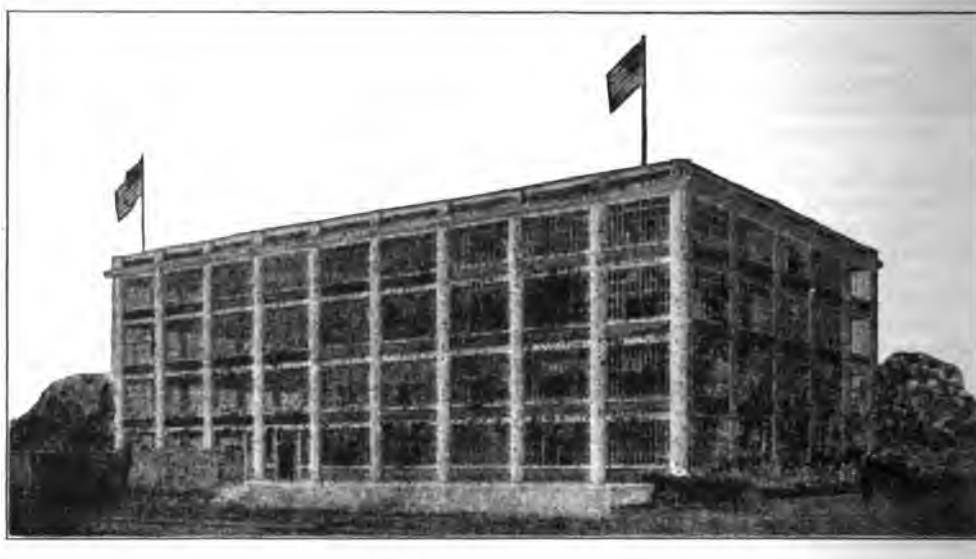
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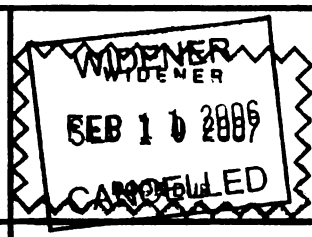
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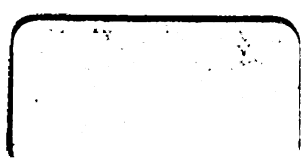
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